

Constitution, and Connecticut's Religious Freedom Act, § 52-571b, caused by Defendants' substantially burdensome, discriminatory and unreasonable land use regulations, and intentional conduct that has prohibited and continues to prohibit Plaintiffs from the free exercise of their religion.

2. Plaintiffs allege that the Commission's denial of St. Vincent's special permit application – which satisfied all applicable criteria under the zoning regulations – was based on a complete disregard of RLUIPA, the U.S. Constitution, the Connecticut Constitution, and a misapplication of state and local laws, ad hoc factors specifically and specially designed to prevent the operation of St. Vincent from its desired location, known as 120 Cliff Street a/k/a 1 Clairmont Avenue, and unequal treatment as compared to similarly situated places of worship and nonreligious assemblies in the City, including in the same area and even the same zoning district as St. Vincent's proposed location.

3. Plaintiffs further allege that in denying St. Vincent's special permit application, the Commission bowed to the pressure of the baseless complaints of neighborhood opponents, and improperly credited their anecdotal testimony at the public hearing on St. Vincent's special permit application over expert testimony and evidence submitted by or on behalf of St. Vincent.

4. Plaintiffs also allege that application by the Commission of unwritten, ad hoc, and novel "standards" that appear nowhere in the zoning regulations to deny St. Vincent's special permit constitutes a prior restraint on Plaintiffs' protected First Amendment activity, does not provide reasonable notice to St. Vincent and the Church, as religious institutions seeking to use real property for religious purposes, about whether their proposed religious use will meet the

unwritten, vague, and ad hoc special permit standards, and therefore allows for unbridled discretion on the part of the Commission.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 because this action is brought under 42 U.S.C. § 2000cc *et seq.* and 42 U.S.C. § 1983. This Court also has supplemental jurisdiction of Count VII and Count VIII under 28 U.S.C. § 11367(a) for claims brought under Connecticut statutes.

6. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because the underlying events occurred in this district, and Defendants are subject to personal jurisdiction in this district as of the commencement of this action.

PARTIES

7. Plaintiff St. Vincent is a non-profit corporation existing under the laws of the State of Connecticut, with its principal place of business at 10 Railroad Place, Norwich, Connecticut. St. Vincent is a ministry of the Diocese. It was established in 1979 and incorporated in 1989.

8. Plaintiff Church is a non-profit corporation, incorporated in 1904, existing under the laws of the State of Connecticut, with its principal place of business at 120 Cliff Street, Norwich, Connecticut. It is a parish of the Roman Catholic Diocese of the City of Norwich (the "Diocese").

9. St. Vincent and the Church are entities under the Diocese.

10. Defendant City of Norwich is a municipality located in the State of Connecticut established pursuant to Special Acts 1951, No. 573, which act constituted the Norwich city

charter (the "City Charter"). At all times relevant hereto, the City was and is responsible for the establishment, enforcement, and implementation of land use and zoning regulations within the City.

11. Defendant Commission is a zoning commission authorized by Chapter XV, Sec. 1 of the City Charter. The Commission consists of five regular members and three alternates appointed by the City Council.

12. Defendant Troeger is the City's Building-Housing Code Enforcement Official and is authorized to enforce, among other things, provisions of the State Building Code. He is sued herein in his official capacity.

13. Defendant Roberts is the City's Captain of the Fire Marshal's Office and is authorized to enforce, among other things, provisions of the State Fire Code. He is sued herein in his official capacity.

FACTUAL ALLEGATIONS

St. Vincent's and the Church's Religious Exercise

14. The Church has been located at 120 Cliff Street since 1904. The Church has therefore contributed to the character of the neighborhood for more than a century.

15. For decades, the Church has aided the homeless and poor in the greater Norwich area. During World War I and the Great Depression, the Church held collections for the needy, orphans, unemployed, the hospital, those affected by floods in 1928, and charitable institutions. Sisters of the Church prepared meals for poor children. In 1934, the Sisters provided these meals to fifty-six poor children. The Sisters also provided financial assistance and shelter to those in need.

16. In 1908, the Diocese established St. Joseph School (the “School”), a religious elementary school dedicated to providing a religious education to its students. By 1925, the Diocese constructed a building to be used by the School. The School building is located at 120 Cliff Street a/k/a 1 Clairmont Avenue in a building separate from but adjacent to the Church building. Between the School building and Church building is a forty-six (46) car parking lot. The School closed in 2010. The Church building and School building are located in the Multifamily Residence District (the “MF District”).

17. In 1979, the City adopted a resolution to honor the Church for its then seventy-five years of providing “effective force in enriching community life through its religious, cultural, educational and social programs.”

18. In 1979, continuing its tradition of serving the homeless and poor, the Diocese established St. Vincent as a ministry of the Diocese to offer a variety of services to the homeless, poor, and others in need of assistance in the greater Norwich area.

19. As a ministry of the Diocese, the services and programs offered by St. Vincent are forms of religious exercise central to the faith of the Diocese and the Church.

20. Plaintiffs believe that their Catholic faith requires them to provide free food and related services to anyone in need. St. Vincent is a welcoming community that strives to provide food, companionship, and advocacy for anyone in need, regardless of race or religion. St. Vincent serves anyone who walks through its doors. Patrons include the unemployed, working poor, underemployed, disabled, homeless, veterans, children, senior citizens, persons newly released from institutions, and residents of recovery houses.

21. The overwhelming majority of St. Vincent's patrons do not have access to automobiles or other forms of transportation, public or otherwise, and thus walk by foot to St. Vincent to receive services. For this reason, it is critically important that St. Vincent remain within walking distance of the Downtown Norwich area so that its patrons continue to have access to its services and programs.

22. Many of St. Vincent's patrons are residents of the Cliff Street neighborhood and its surrounding neighborhoods.

23. St. Vincent serves breakfast and lunch to its patrons through its soup kitchen Monday through Saturday. Breakfast is served at 8:00 a.m. and is available until 10:00 a.m. Lunch is served at 11:30 a.m. and is available until 1:00 p.m. Members of the clergy and others lead prayer each day before meals. Over the past five years, St. Vincent, on average, has served 79,362 meals each year.

24. St. Vincent, through its food pantry program, distributes food bags to households to take to their homes for consumption three days per week: Monday, Wednesday, and Saturday. The food pantry is open on Monday and Wednesday from 1:30 p.m. until 3:30 p.m. and on Saturday from 9:00 a.m. until 11:00 a.m. Over the past five years, St. Vincent, on average, has had 7,104 visits to its food pantry each year. On average, during the past five years, 1,148 children under the age of eighteen years are members of the households visiting the food pantry. Patrons may pick up food items from the food pantry once per week.

25. St. Vincent receives some of the food its serves through its soup kitchen and food pantry programs from the United States Department of Agriculture ("USDA") and the Federal Emergency Management Act.

26. In addition to feeding the homeless and poor, St. Vincent provides a variety of other services. St. Vincent provides shower services on Monday through Saturday from 8:00 a.m. until 11:00 a.m. Approximately eight to twelve patrons use the shower facilities each day. This shower is the only publicly available shower in the City. In addition, St. Vincent also connects patrons with medical services provided by outside organizations to help stabilize or improve their health, and has a case worker on-staff to provide patrons with information concerning job openings, apartments rentals, and community events, among other things.

27. St. Vincent used to deliver meals to residents of the City's No Freeze Shelter, but the City closed the shelter in 2013. The No Freeze Shelter was operated by the City from November 1 to April 1 of each year and was intended to prevent chronically homeless single adults from freezing during the winter months. The shelter was open from 7:30 p.m. each evening until 7:00 a.m. the following morning. Patrons of the shelter had food delivered to them by St. Vincent for consumption at the No Freeze Shelter. St. Vincent and the No Freeze Shelter worked together in harmony – when one was closed the other was open. Without St. Vincent, patrons of the City's No Freeze Shelter would have been without evening meals, the use of the only public shower facility in the City, and a place to stay when the shelter is closed.

28. St. Vincent is closed on Sunday. To provide St. Vincent with this day of rest, other religious organizations in the City take turns providing free meals and food to the homeless and low-income families, many of whom are patrons of St. Vincent.

29. From approximately 2000 until 2012, St. Vincent leased a portion of a building in Downtown Norwich, located at 10 Railroad Place, where it provided these services.

30. On July 5, 2012, St. Vincent's landlord informed it of serious structural issues with the building at 10 Railroad Place. The landlord informed St. Vincent that the building would need to undergo extensive renovations to address these problems.

31. Because of the safety concerns related to the structural issues of the building at 10 Railroad Place leased by St. Vincent, St. Vincent was constructively evicted from its lease of the building and vacated 10 Railroad Place on July 7, 2012.

32. The landlord demanded that if St. Vincent wished to return, it would have to sign a long-term lease agreement at exorbitant and unaffordable costs, and would have to lease the entire building, rather than just a portion of the building as it had done previously, adding to the already unaffordable cost.

33. St. Vincent's second of five one-year lease options expired in April 2013, while the building was still undergoing extensive renovations.

34. The building at 10 Railroad Place is no longer available for use by St. Vincent.

The Subject Property

35. Religious uses such as St. Vincent are subject to special permit requirements throughout the City and subject to discretionary review.

36. Any property St. Vincent seeks to use for religious purposes would be subject to the City's discretionary review of special permits.

37. In 2009, with rising costs amidst the struggling economy, St. Vincent began working with a realtor to find a property for it to permanently locate, and it examined several properties since then. Despite these efforts, St. Vincent has been unable to find a property that would provide a ready and feasible alternative where it could continue to serve the needy and

homeless. In particular, exorbitant costs, environmental and contamination concerns, the need for extensive, time-consuming, and costly repairs and renovations, and the distance from Downtown Norwich, among other things, have ruled out each of these properties as ready and feasible alternatives.

38. The Church building is not a feasible alternative because extensive, costly, and time-consuming renovations would be required.

39. The property at 10 Railroad Place is no longer available for lease or purchase. When the building at 10 Railroad Place was undergoing structural renovations, the landlord informed St. Vincent that it would have to lease the entire building at costs unaffordable to St. Vincent, if it wished to return. The landlord provided no timetable for when the renovations would be completed. Previously, St. Vincent leased a portion of the building, not the entire building.

40. Moving to the former school building was not only the most logical option for St. Vincent, but it was the only feasible option to allow St. Vincent to provide free meals and food to the needy and homeless in accordance with its religious practice and belief.

41. With no other options and hundreds of patrons to serve, St. Vincent sought to relocate to the building at 120 Cliff Street a/k/a 1 Clairmont Avenue formerly operated by the Diocese as a religious School (the "Property"). This building is only one-half-of-a-mile from the building at 10 Railroad Place that had been leased by St. Vincent. Because the majority of St. Vincent's patrons do not have access to automobiles and thus walk to St. Vincent, the proximity of the School building to the 10 Railroad Place building was necessary for the success of any such move and operation of St. Vincent. Because many of St. Vincent's patrons live on Cliff

Street and other surrounding neighborhoods, this location provides them with ready access to St. Vincent's services.

42. At its peak in 1992, 300 students were enrolled at the School, with twenty (20) staff members. The school's enrollment declined to a low of approximately ninety (90) students and sixteen (16) staff members in 2010. In 2010, the School closed due to financial issues related to its declining enrollment.

43. The School operated Monday through Friday. Teachers arrived between 7:00 and 7:30 a.m. and classes began at 8:00 a.m. The School served breakfast and lunch to its students. Recess was a daily activity held in the parking lot supervised by teachers. Students would leave at 2:30 p.m. Teachers often remained for after-school functions and evening programs.

44. For the past ten years, the Church has held its Lenten fish fry in the basement of the School building, with approximately two-hundred people attending each week. The Church also holds parish coffee hour in the basement of the School building after the 8:45 a.m. and 10:30 a.m. masses on the first Sunday of each month. In addition, various Church meetings are held in the School building. These activities continue to the present day.

45. On July 9, 2012 St. Vincent received a temporary zoning permit from the City, signed by Peter Davis, authorizing St. Vincent to occupy the Property for six-months. The temporary permit states that St. Vincent may remain at the Property after the temporary permit expires if it obtains a special permit. On July 11, 2012, Jillian Corbin Executive Director of St. Vincent, wrote to Chief Kenneth Scandariato, City of Norwich Fire Department, Office of the Fire Marshal, in reply to his request for a letter of intent regarding St. Vincent's temporary operation at the Property. On July 13, 2012, St. Vincent received a temporary certificate of

occupancy from the City's Department of Planning & Development Building Inspection Division, signed by Troeger, to occupy the basement and two rooms on the first floor of the building at the Property for six-months. That temporary certificate of occupancy notes that an accessibility modification must be made to allow access to the pantry area. Troeger's letter references an August 6, 2012 letter from Daniel Tierney, Deputy State Building Inspector to approve an accessibility exemption for St. Vincent.

46. St. Vincent operates its soup kitchen from the basement and its food pantry from two rooms on the first floor of the building on the Property. The basement is in need of certain renovations and upgrades, including a commercial dishwasher that can handle the demand of St. Vincent's services.

47. St. Vincent has two clothes washing machines and two dryers, but is unable to use them in the limited space in which it is confined. St. Vincent previously offered its patrons clothes washing and clothes drying services at 10 Railroad Place. Providing this service is a form of Plaintiffs' religious exercise.

48. The two rooms on the first floor do not provide St. Vincent with enough space to store food items. St. Vincent is sometimes forced to reject food donations for lack of storage space and must store other food off-site. Rejecting food donations compounds St. Vincent's ability to exercise its religion in these difficult economic times by providing free food to increasing numbers of mouths. Further compounding St. Vincent's ability to exercise its religion is the immediate injury that St. Vincent has suffered in obtaining grant funding, discussed *infra*, as a result of the special permit denial.

49. Having obtained a temporary six-month variance to operate from the School building, St. Vincent went out of its way to be sensitive to its neighbors. Each day, St. Vincent inspects its property and other properties throughout the neighborhood. It removes any trash it finds, regardless of whether the trash has been generated by its patrons or residents of the neighborhood.

50. The Cliff Street neighborhood is home to other non-residential uses, including other community service programs that are located on Cliff Street. The Katie Blair House, operated by Bethsaida Community, Inc. is adjacent to the Church and the School. It provides supportive living and behavioral services to women striving to become independent members of the community. Bethsaida Community, Inc. rents the former convent of St. Joseph at 117 Cliff Street. Its offices are on the first floor of this building, and the second floor of the building, called Patricia's Place, provides additional housing to its clients. Reliance House, Inc., based on the nearby Broadway Street, operates its Outreach to Homeless Programs in Cliff Street to provide, among other things, shelter, food, and clothing to those in need.

51. The Gagne Funeral Home is located in the same neighborhood at 82 Cliff Street. As a funeral home, it frequently hosts large religious assemblies for funeral services. It further defines the religious character of the Cliff Street neighborhood.

**The City's Zoning Regulations, Special Permit Requirements and
Denial of St. Vincent's Special Permit Application**

52. After receipt of the temporary approvals, St. Vincent, with the aid of a realtor, continued to explore alternative properties from where it could operate. Like before, exorbitant costs, the need for extensive, time-consuming, and expensive repairs and renovations,

environmental and contamination issues, and distance from Downtown Norwich precluded each of these properties from being ready and feasible alternatives.

53. Appendix A (Zoning) to the Norwich Code of Ordinances (the “Zoning Regulations”) unreasonably limits where St. Vincent may use property for religious purposes. The Zoning Regulations permit certain types of religious uses in some zoning districts while prohibiting other types of religious uses from the same zone.

54. The Zoning Regulations permit a “club” use in certain zoning districts. A “club” use is defined by § 1.14. of the Zoning Regulations as “an association of persons which is the owner, lessee, or occupant of an establishment operated solely for a recreational, social, fraternal, religious, political or athletic purpose whose activities are confined to the members and guests, are not extended to the general public, and include the establishment so operated, but does not include such club the chief activities of which is a service customarily carried on primarily for business or gain.” (emphasis added).

55. The Zoning Regulations also permit in certain zoning districts “religious” uses extended to the general public.

56. While St. Vincent is an association of persons for religious purposes, it states that it is commanded by God to extend its services to the general public. A “club” use, as defined by the Zoning Regulations, discriminates between the types of permitted religious uses. Because St. Vincent is a religious use whose services are extended to the general public, it is not a “club” use under the City’s Zoning Regulations.

57. Many of the City’s zones, as set forth in the Zoning Regulations, allow a “club” use, but either prohibit religious uses open to the general public, or subject religious uses to

different, more stringent requirements. Many of the zones also allow nonreligious assembly uses, but either subject religious assembly uses (open to the general public) to different, more stringent requirements or prohibit religious assembly uses altogether.

58. The Neighborhood Commercial District allows “clubs” as-of-right. It also allows by special permit the following uses: “assembly halls;” “theaters;” “parks;” “public buildings used for governmental purposes;” “private trade schools, commercial schools, colleges and commercial day care centers;” “hotels, motels, and inns” “Religious” uses open to the general public are prohibited in this zoning district.

59. The General Commercial District allows as-of right the following uses: “Any permitted use allowed in the neighborhood commercial district;” “private trade schools and commercial schools, colleges, and commercial day care centers;” “assembly hall, bowling alley, dancehall, pool and billiard rooms, theatre, skating rink, or other social, sport or recreation center;” “public buildings and uses including city, state, and federal;” “hotels, motels and inns.” “Religious” uses open to the general public are prohibited in this zoning district.

60. The Planned Commercial District allows “clubs” as-of-right. It also allows as-of-right the following uses: “private trade schools, commercial schools, colleges and commercial day care centers;” “assembly hall, bowling alley, dance hall, pool and billiard rooms, theatre, skating rink or other social, sport or recreation center;” “public buildings and uses including city, state and federal;” and “hotels, motels and inns.” “Religious” uses open to the general public are prohibited in this zoning district.

61. The Chelsea Central District allows “clubs” as-of-right. It also allows as-of-right the following: “museum/art gallery;” “theater, including performing arts theaters;” “school –

public, private, commercial;” bars, taverns, cafes;” “parks, open space, public recreation facilities;” “public buildings and uses including city, state and federal;” and “libraries.” “Hotel/inn” are allowed by special permit. “Religious” uses open to the general public are prohibited in this zoning district.

62. The Planned Development Design District allows the following uses as-of-right: “parks;” “health clubs;” “hotels, inns and resorts.” It allows the following uses by special permit: “colleges, universities, educational institutions;” “child care facilities.” “Religious” uses open to the general public are prohibited in this zoning district.

63. The Waterfront Development District allows the following uses as-of-right: “public and private parks and playgrounds;” “museums with nautical themes;” “swimming clubs;” “cafes.” “Religious” uses open to the general public are prohibited in this zoning district.

64. On September 14, 2012, with no other options, and at the direction of the City and its agents, Jillian Corbin submitted an application on behalf of St. Vincent for a special permit to locate permanently at the School pursuant to § 8.1.2(b), which sets forth those uses that are specially permitted in the MF District (SP # 12-03) (the “Application”). St. Vincent also applied for a site plan waiver pursuant to § 17.1.11 of Zoning Regulations.

65. The Application did not propose any exterior changes or renovations to the School building. The only planned interior renovation was the installation of an elevator to provide handicap access for the food pantry, as required by the State of Connecticut. Ms. Corbin was advised that the installation of the elevator and related construction would cost \$125,000 or more.

66. Section 8.3.2 of the Zoning Regulations allows the following uses by special permit in the MF District: “Philanthropic, educational, recreational, religious and eleemosynary use by a duly incorporated nonprofit body or government unit.” The Zoning Regulations do not define these terms.

67. Section 17.2.3 of the Zoning Regulations governs the criteria for the granting of a special permit. It provides in part that the Commission must determine that the use will be: (1) “harmonious to the surrounding neighborhood”; and (2) “that it will not negatively impact the character of the area or diminish the quality of life.”

68. Pursuant to § 17.2.3(a), the commission shall also review the following criteria for granting a special permit:

- a. *Character.* The nature, location, size, intensity and site layout of the use shall be such that it will be in harmony with the appropriate and orderly development of the area in which the use is situated and that its operations will not be detrimental by reason of dust, noise, odor, fumes, explosion, glare, drainage, or sewage problems. In addition, the appearance of any structures constructed shall physically and architecturally complement the neighborhood in which the property is located as deemed by the commission.
- b. *Traffic.* The proposed traffic ways are adequate to accommodate any increase in traffic, that any such increase in traffic will not detrimentally impact the character of the area or conflict with the normal traffic within the neighborhood and the use will not cause or detrimentally impact safe vehicular and pedestrian traffic conditions.
- c. *Future development.* The location and height of buildings, the location and nature and height of walls and fences, and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.
- d. *Additional requirements.* In addition to the criteria noted above, criteria may be noted under the specific special permitted uses. Such criteria shall be considered as part of this section.

69. The Zoning Regulations do not define what use will be “harmonious to the surrounding neighborhood,” what use will “negatively impact the character of the area,” or what use will “diminish the quality of life.”

70. The Zoning Regulations do not define what use will “be in harmony with the appropriate and orderly development of the area.”

71. The Zoning Regulations do not define what use will “detrimentally impact the character of the area.”

72. The Zoning Regulations do not define what use will “hinder or discourage the appropriate development and use of adjacent lands.”

73. The Zoning Regulations do not define what use will “physically and architecturally complement the neighborhood” or the standard by which the Commission will evaluate whether a proposed religious use complies with this requirement.

74. The special permit standards set forth in § 17.2.3(a) allow the Commission to make individualized assessments of all applications for special permits. Moreover, the inherently subjective standards of § 17.2.3(a) give the Commission broad discretion over any decision on St. Vincent’s special permit application, enabling it to accept or reject applications on a case-by-case basis according to its own unwritten and ad hoc standards. The Zoning Regulations do not indicate whether each of the above “criteria” must be met, or how they are supposed to be weighed.

75. The Commission may approve a special permit application with conditions, and may do so on its own initiative; that is, without a request being made by an applicant. In

particular, § 17.2.3 of the Zoning Regulations provides in part: “The commission may establish conditions of approval to ensure the intent of the special permit criteria is met.”

76. Residents of the Cliff Street neighborhood opposed the Application, distributing leaflets throughout the neighborhood following Church mass to “stop this madness” of St. Vincent permanently providing its services and programs from the former School building.

77. The public hearing on St. Vincent’s special permit application took place over multiple evenings, opening on October 16, 2012 and concluding on November 20, 2012.

78. St. Vincent repeatedly raised its right to the free exercise of religion, as protected by the United States and Connecticut constitutions, RLUIPA, and the Connecticut Religious Freedom Act, at the public hearing before the Commission. Members of St. Vincent, the Diocese, and other institutions testified and submitted evidence that the operation of St. Vincent constitutes a religious use.

79. At the public hearing, St. Vincent submitted testimony and evidence, including from experts, that St. Vincent’s use of the Property is harmonious with the character of the neighborhood and is less intense of a use than the School’s use there just two years prior.

80. At the public hearing, Reverend Tadeusz Zadorozny, the Church’s then administrator, testified about the Church’s one hundred-plus year history in the Cliff Street neighborhood, including the many charitable services provided throughout the years, such as serving meals to poor children.

81. At the public hearing, Jillian Corbin, executive director of St. Vincent, testified that several residents of Cliff Street and other surrounding neighborhoods attend St. Vincent to receive services.

82. At the public hearing, Robert Mercer of Mercer & Bertsche Architecture and Engineering, an experienced architect, testified that St. Vincent's proposed use of the Property is in harmony and consistent with the religious character that has defined the Cliff Street neighborhood for more than a century, and that St. Vincent is a self-contained campus that is operated by a few paid personnel and other volunteers. He testified to the parallels between the operation of St. Vincent and the School, including the serving of meals and hours of operation. Mr. Mercer also testified that the proposed use of the Property by St. Vincent is less intense of a use than the former religious school use that had operated there. Unlike the previous school use, however, there are no longer school buses and other automobiles coming and going to transport the students, and there are no longer students playing outside in the parking lot during recess. Additionally, St. Vincent's staff is smaller than that which had been at the School. Mr. Mercer testified that, after a detailed review of the traffic associated with the proposed and current use of the Property and the present conditions existing in the surrounding neighborhood, St. Vincent's use of the Property will result in a reduction of traffic compared to traffic generated by the School just two years prior.

83. At the public hearing, St. Vincent offered testimony and evidence that its proposed use of the Property is also consistent with the other social and charitable services such as the Katie Blair House, Patricia's Place, and Reliance House, Inc. that define the character of the Cliff Street neighborhood.

84. At the public hearing, St. Vincent submitted the approved City of Norwich Public Safety Committee Minutes of the September 12, 2012. The minutes detail the testimony of Sergeant Peter Camp of City of Norwich Police Department. Sergeant Camp testified that he

had evidence that there has been no uptick in crime in or around the Cliff Street neighborhood since St. Vincent moved there. Sergeant Camp stated that a garbage complaint had actually been caused by a resident in the neighborhood and not by a St. Vincent patron. Sergeant Camp added that St. Vincent's patrons are behaving "better because they are in a neighborhood. It is as though they are trying to respect the neighbors."

85. Nevertheless, several neighborhood opponents provided anecdotal, lay, and unconfirmed testimony that St. Vincent's use of the Property is not harmonious with the character of the neighborhood.

86. Expert and other evidence provided by or on behalf of St. Vincent contradicts the anecdotal, lay, and unconfirmed testimony of the neighbors.

87. Upon information and belief, no neighbor who spoke in opposition to the Application submitted personal resumes or C.V.'s or other information that demonstrates specific technical skill, expertise, or training concerning any of the special permit criteria.

88. The Commission received no expert evidence to oppose the Application.

89. The Commission was duty-bound to consider RLUIPA, the U.S. Constitution, and the Connecticut Constitution and to accommodate St. Vincent where possible by considering conditions that would be the least restrictive means possible of burdening or otherwise infringing on Plaintiffs' religious exercise.

90. The Commission, based on a variety of factors, illegally and wrongfully failed to consider, apply, or properly apply RLUIPA, the U.S. Constitution, or the State of Connecticut Constitution when reviewing and deciding the application.

91. On December 18, 2012, one week before the Christmas holiday, the Commission convened its regularly scheduled session.

92. The Commission then denied the Application by a vote of 5-0 (the "Decision"). Although members of the Commission commented on several of the special permit criteria, they collectively denied St. Vincent's special permit application by finding that the use of the Property is not consistent with the character of "a" neighborhood. The Commission made no finding as to any of the other special permit criteria.

93. In denying the Application, the Commission arbitrarily and capriciously credited the anecdotal and lay testimony of the neighbors and others over expert and other testimony and evidence offered by or on behalf of St. Vincent.

94. The Commission could have approved the Application with modifications or conditions, but chose not to do so. The Decision is therefore absolute and there is no reasonable opportunity for St. Vincent to submit a modified special permit application to operate at the Property. The Commission could have denied the application without prejudice, but chose not to do so.

95. On the same evening, the Commission approved at least one other application, but arbitrarily denied the Application.

96. Legal notice of the Commission's denial of the Application was published on December 21, 2012 in *Norwich Bulletin*.

97. On December 31, 2012, St. Vincent received a notice of denial from the Commission. The notice of denial is dated December 20, 2012, eleven days prior to the date St.

Vincent received it. The notice of denial states that the Commission denied the Application based on its finding that “[c]hange of use is not harmonious with a residential neighborhood.”

Discrimination Against St. Vincent de Paul Place, Norwich, Inc.

98. Upon information and belief, Defendants routinely permit other religious institutions to conduct similar activities as St. Vincent, including institutions in the very same MF District.

99. Through the Decision and other actions, Defendants are implementing their land use laws and regulations in a way that treats St. Vincent on less than equal terms with religious institutions that engage in practices similar to those of St. Vincent. Defendants have also irrationally singled out Plaintiffs by treating them more harshly than they treat these similarly situated religious institution which provide meals and other charitable services to the needy of Norwich.

100. Several religious organizations in the City provide on-site meals and groceries through food pantry programs to the homeless, poor, and needy of Norwich. Several religious organizations take turns providing free meals on Sunday to afford St. Vincent a day of rest.

101. Upon information and belief, the Central Baptist Church located at 2 Union Street in the MF District, the same district as St. Vincent, similarly offers free meals on site in which it serves dinner every Friday night from 5:30 p.m. to 6:30 p.m. and breakfast every Sunday morning from 8:30 a.m. to 10:00 a.m. to the poor and needy. During Lent, Central Baptist hosts Friday lunches, with the food prepared by St. Vincent. In addition, it provides a food pantry through its Norwich Clergy Association from which individuals can pick up food items for consumption at their homes once per month. The food pantry operates on Thursday from 9:00

a.m. to 12:00 p.m. It offers free meals for on-site consumption in a building separate and apart from its church building.

102. Central Baptist began this operation in 2011. It did not obtain zoning approval to do so, nor did the City require that it do so. Neither the City nor its agents have issued Central Baptist a notice of violation or any other order alleging Central Baptist to be in violation of the Zoning Regulations for its operation. As of March 2013, Central Baptist had served 13,000 meals to the poor and needy.

103. Upon information and belief, St. Mark Lutheran Church, located at 248 Broadway in the MF District, the same district as St. Vincent, provides lunch to the homeless, poor and needy.

104. Upon information and belief, First Haitian Baptist Church, located at 356 Central Ave. and in the MF District, operates a food pantry from which families with children can pick up food items. In 2005, the Commission approved First Haitian Baptist Church's special permit application to operate a church at this location. Upon information and belief, Defendants required nothing from it regarding its operation of the food pantry.

105. Upon information and belief, St. Peter and Paul Church, located at 181 Elizabeth St. and in the MF District, the same district as St. Vincent, operates a food pantry from which individuals referred from a social service agency can pick up food items.

106. Upon information and belief, other religious institutions in other districts in the City, including residential districts, provide services similar to those provided by St. Vincent.

107. Upon information and belief, Lee Memorial United Methodist Church, located at 294 Washington Street in the R-40 Residence District serves lunch to the homeless, poor, and needy.

108. Upon information and belief, Tabernacle Deliverance and Praise Ministries, located at 230 Hunters Road and in the R-40, Residence District, operates or did operate a food pantry from which individuals can pick up food items.

109. Upon information and belief, the United Congregational Church located at 87 Broadway in the Chelsea Central District (the "CC District"), provides meals to the homeless, poor, and needy.

110. Upon information and belief, the Salvation Army located at 262 Main Street in the CC District, provides meals to the homeless, poor, and needy. It also operates a food pantry from which individuals can pick up food items.

111. Upon information and belief, Catholic Charities, Diocese of Norwich, Inc., located at 331 Main St. and in the CC District, operates a food pantry from which families with children can pick up food items.

112. Upon information and belief, Family Church of God, located at 63 Church St. and in the CC District, operates a food pantry from which families with children can pick up food items.

113. Upon information and belief, Madonna Place, located at 240-248 Main St. and in the CC District, operates a food pantry from which families with children can pick up food items.

114. Upon information and belief, Defendants have treated St. Vincent on less than equal terms in their application of the City's land use regulations, as compared to both religious

and secular assemblies in the City. Upon information and belief, the City and its agents have not issued notices of violation or any other orders to other similar food service uses for their failure to operate same without zoning approval; nor has the City required that they obtain zoning approval to continue such uses.

115. St. Vincent has no adequate remedy at law for the harm and damage caused by Defendants' wrongful laws and actions.

116. On February 1, 2013, St. Vincent and the Church applied for a use variance to use the former religious school building at 120 Cliff Street as a soup kitchen and food pantry. The City's Zoning Regulations (§ 19.1) require that it submit any application for a use variance to the Commission for review and recommendation.

117. In or about March 2013, the Commission provided a negative recommendation with regard to St. Vincent's and the Church's application for a use variance. The Commission made this recommendation for all of the reasons stated by Peter Davis, the City's Director of Planning & Neighborhood Services, in a memorandum dated March 25, 2013. In this memorandum, Mr. Davis states in part that St. Vincent is a "social service" and allowing St. Vincent to operate at 120 Cliff Street – or anywhere else downtown – would be inconsistent with the City's Plan of Conservation and Development ("POCD"), which states that social service uses need to be lessened in the downtown area. Mr. Davis' memorandum also states that St. Vincent and the Church should use the 120 Cliff Street property for some other religious or nonreligious use, and states, "there are many other as-of-right and special permit uses in the multi-family zoning ordinance which the applicant has failed to consider and/or apply for"

118. The Board received into the record Mr. Davis' memorandum and the minutes of the Commission voting to provide a negative recommendation to the Board regarding Plaintiffs' application for a use variance for all of the reasons stated in the memorandum.

119. In providing this negative recommendation, the Commission has made it clear that it will never permit St. Vincent to operate anywhere downtown. The City's Director of Planning & Neighborhood Services has also made it clear that he will never support St. Vincent locating downtown, because it allegedly would be inconsistent with the POCD. Requesting permission from either the Commission or Mr. Davis to operate a soup kitchen, food pantry, or related services at 120 Cliff Street would be futile because it would result in certain denial.

120. On May 14, 2013, the Board denied St. Vincent's and the Church's application for a use variance.

121. The Commission's denial of the special permit Application, made several months before the Board denial of the use variance application, substantially burdens and prevents Plaintiffs from the free exercise of their religion. The City, through the actions of the Commission, has rendered Plaintiffs' religious exercise impracticable.

122. The harm to St. Vincent and the Church caused by Defendants' laws and actions, which prevent Plaintiffs from freely exercising their religion, is immediate and severe.

123. Plaintiffs are likely to succeed on the merits of this action.

Plaintiffs Have Suffered Immediate and Irreparable Injury

124. The impact of the Decision has been devastating and immediate. The Decision has left St. Vincent with nowhere else to go. St. Vincent has explored properties throughout the City to relocate, but there are no ready and feasible alternatives. Further, the Zoning Regulations

discriminate against religious uses open to the general public, such as St. Vincent, barring such uses from many zones while allowing “club” uses and other nonreligious assembly uses. The Decision will force St. Vincent to cease operating altogether. For this reason, the Plaintiffs will be deprived of freely exercising their religious beliefs.

125. Denial of the special permit has created a sense of apprehension among St. Vincent’s patrons, many of whom rely on its services for survival. These patrons fear that without a special permit, St. Vincent will be forced to terminate its operations, leaving them without food.

126. Denial of the special permit has created a sense of apprehension among St. Vincent’s members, who fear that without a special permit, they will no longer be able to serve the homeless and poor in accordance with their religious beliefs.

127. St. Vincent is a non-profit organization with a limited budget. It relies on grants from other charitable organizations to maintain its services to serve the poor and homeless to fulfill its religious beliefs.

128. Denial of the special permit has severely hindered St. Vincent by preventing it from accessing charitable funds on which it relies to feed the poor and homeless.

129. The grant money that St. Vincent receives from other charitable organizations accounts for nearly one-quarter of its entire budget.

130. Without the support of its grantors, St. Vincent cannot perform its religious mission of providing food and assistance to the impoverished.

131. St. Vincent continuously seeks grants from a number of funders, since nearly one-quarter of its revenue depends on their awards.

132. Organizations offering grant money, some of which have provided funding to St. Vincent in the past, generally require an applicant to be in compliance with the Zoning Regulations for the location of their operations to receive grants.

133. Certain charitable organizations which regularly grant money to St. Vincent, including the Liberty Bank Foundation, the R.S. Gernon Trust, and the Edward and Mary Lord Foundation, require an applicant to provide information about where and when activities will take place. Denial of the special permit has threatened St. Vincent's existence altogether, and prevents it from obtaining needed grant money, or has reduced the amount funders are willing to provide.

134. Some charitable organizations have informed St. Vincent that (1) it must first resolve its alleged non-compliance with the Zoning Regulations to receive funding or (2) its alleged noncompliance with the Zoning Regulations will adversely affect the amount of funding it receives, if any.

135. Without this funding, St. Vincent has been unable to move forward with much needed facility renovations, including the installation of an elevator to accommodate disabled patrons. Because St. Vincent is unable to obtain the necessary funding to purchase and install an elevator, some of its disabled patrons have already stopped coming to St. Vincent due to the lack of handicapped accessibility. Likewise, the absence of such access prevents St. Vincent from attracting and serving new disabled patrons requiring handicapped accessibility.

136. Plaintiffs are unable to fulfill their religious mission "to provide food, companionship, and advocacy to anyone in need, regardless of race or religion," such as those requiring handicapped accessibility.

137. St. Vincent must install a commercial dishwasher that can handle the demand of its services, and which costs between \$10,000 and \$15,000, but is unable to raise necessary funds without a permanent location. Without a commercial dishwasher than can handle its demand, St. Vincent must resort to using paper goods at a cost of approximately \$800 per month, an expense that would disappear with the acquisition of a commercial dishwasher.

COUNT I

**Violation of Religious Land Use and Institutionalized
Persons Act – “Substantial Burden”
42 U.S.C. § 2000cc(a)**

138. Paragraphs 1 through 137 are incorporated by reference as if set forth fully herein.

139. Congress requires that the Court construe RLUIPA “in favor of broad protection of religious exercise, to the maximum extent permitted by the terms of [RLUIPA] and the Constitution.” 42 U.S.C. § 2000cc-3(g).

140. If not enjoined, the Decision will leave St. Vincent with no ready and feasible alternative location to perpetuate the religious mission of the Diocese and continue its existence; at best, St. Vincent will undergo substantial delay, uncertainty, and expense to one day continue its existence elsewhere, during which time Plaintiffs will be unable to practice their religion.

141. The Decision is arbitrary, irrational, and bears no substantial relation to the public health, safety, and welfare.

142. With no ready alternatives, the Decision will prohibit St. Vincent’s operation, coercing it, its patrons, the Church, and the Diocese not only into modifying their religious conduct, but precluding them entirely from continuing such religious exercise.

143. By imposing and implementing the City's land use and zoning laws in this manner, and by the conduct described above, Defendants have imposed and will continue to impose a substantial burden on the religious exercise of St. Vincent in violation of 42 U.S.C. § 2000cc(a)(1).

144. The imposition of this substantial burden on the religious exercise of Plaintiffs by Defendants is not in furtherance of a compelling governmental interest, nor is it the least restrictive means of furthering a compelling governmental interest, as required by 42 U.S.C. § 2000cc(a)(1).

145. This substantial burden on the religious exercise of St. Vincent is imposed by Defendants in the implementation of a system of land use regulations under which Defendants make, and have in place formal and informal procedures or practices that permit them to make individualized assessments of proposed land uses, as contemplated by 42 U.S.C. § 2000cc(a)(2)(C).

146. The substantial burden on the religious exercise of St. Vincent will affect commerce among the several states, as contemplated by 42 U.S.C. § 2000cc(a)(2)(B).

147. The substantial burden on the religious exercise of St. Vincent is imposed on a program or activity that receives Federal financial assistance, as contemplated by 42 U.S.C. § 2000cc(a)(2)(A).

Relief Requested

148. By virtue of the foregoing conduct, Defendants have violated Plaintiffs' rights under 42 U.S.C. § 2000cc(a), and Plaintiffs are accordingly entitled to such relief as the Court finds to be appropriate, including but not limited to, a declaration that the denial of St. Vincent's

special permit application is void, invalid, and unconstitutional, temporary, preliminary, and permanent injunctive relief to enjoin Defendants from preventing St. Vincent from continuing to operate at the Property based on the Commission's denial of the special permit application, an order directing the Commission to issue St. Vincent a special permit to operate from the Property, compensatory damages, and attorneys' fees and costs, pursuant to 42 U.S.C. § 1988.

COUNT II

Violation of Religious Land Use and Institutionalized Persons Act – “Nondiscrimination” 42 U.S.C. § 2000cc(b)(2)

149. Paragraphs 1 through 137 are incorporated by reference as if set forth fully herein.

150. By imposing and implementing the City's land use and zoning laws and regulations in the manner described above, and by the conduct described above, Defendants are treating St. Vincent on less than equal terms with comparable and similarly situated religious uses, which uses Defendants freely permit to engage in the similar practice of providing free meals, food items, and other charitable services to the homeless, poor, and needy.

151. Defendants' laws and conduct have deprived and will continue to deprive Plaintiffs of their right to the free exercise of religion.

Relief Requested

152. By virtue of the foregoing conduct, Defendants have violated Plaintiffs' rights under 42 U.S.C. § 2000cc(b), and Plaintiffs are accordingly entitled to such relief as the Court finds to be appropriate, including but not limited to, a declaration that the denial of St. Vincent's special permit application is void, invalid, and unconstitutional, temporary, preliminary, and

permanent injunctive relief to enjoin Defendants from preventing St. Vincent from continuing to operate at the Property based on the Commission's denial of the special permit application, an order directing the Commission to issue St. Vincent a special permit to operate from the Property, compensatory damages, and attorneys' fees and costs, pursuant to 42 U.S.C. § 1988.

COUNT III

Violation of Religious Land Use and Institutionalized Persons Act – “Equal Terms” 42 U.S.C. § 2000cc(b)(1)

153. Paragraphs 1 through 137 are incorporated by reference as if set forth fully herein. By imposing and implementing the City's land use and zoning laws and regulations in the manner described above, and by the conduct described above, Defendants are treating Plaintiffs on less than equal terms with comparable and similarly situated nonreligious institutions, which institutions Defendants freely permit to engage in the similar practices of providing free meals, food items, and other charitable services to the homeless, poor, and needy, and nonreligious assembly uses. Such conduct has deprived and continues to deprive Plaintiffs of their right to the free exercise of religion.

Relief Requested

154. By virtue of the foregoing conduct, Defendants have violated Plaintiffs' rights under 42 U.S.C. § 2000cc(b), and Plaintiffs are accordingly entitled to such relief as the Court finds to be appropriate, including but not limited to, a declaration that the denial of St. Vincent's special permit application is void, invalid, and unconstitutional, temporary, preliminary, and permanent injunctive relief to enjoin Defendants from preventing St. Vincent from continuing to operate at the Property based on the Commission's denial of the special permit application, an

order directing the Commission to issue St. Vincent a special permit to operate from the Property, compensatory damages, and attorneys' fees and costs, pursuant to 42. U.S.C. § 1988.

COUNT IV

**United States Constitution
42 U.S.C. § 1983: First Amendment
Free Exercise of Religion**

155. Paragraphs 1 through 137 and 139 through 147 are incorporated by reference as if set forth fully herein.

156. Defendants have deprived and continue to deprive Plaintiffs of their right to the free exercise of religion, as secured by the First Amendment to the United States Constitution, as made applicable to the States by the Fourteenth Amendment, by imposing and implementing the City's land use and zoning laws and regulations in the manner described above, and by the conduct described above.

157. Defendants' implementation, imposition, and application of the City's land use laws and regulations is not neutral and generally applicable, but instead discriminates unfairly against Plaintiffs.

158. Defendants have imposed a substantial burden on Plaintiffs' free exercise of religion without any compelling interest, and without using the least restrictive means, including but not limited to granting a special permit with reasonable conditions as provided for by § 17.2.3 of the Zoning Regulations and § 8-3c of the Connecticut General Statutes.

159. By singling out Plaintiffs for unequal, adverse treatment, and bowing to pressure from neighborhood opponents, Defendants have deprived Plaintiffs of rights, remedies, privileges, and immunities guaranteed to every citizen of the United States, in violation of 42

U.S.C. § 1983, including, without limitation, the right to free exercise of religion guaranteed by the First and Fourteenth Amendments to the United States Constitution.

160. Defendants, acting through and in concert with each other, under the color of law and in their respective official positions, and in furtherance of a custom or policy of the City, have deprived Plaintiffs of their constitutionally protected rights, which has caused Plaintiffs immediate and irreparable injury.

Relief Requested

161. Plaintiffs are accordingly entitled to such relief as the Court finds to be appropriate, including but not limited to a declaration that the denial of St. Vincent's special permit application is void, invalid, and unconstitutional, temporary, preliminary, and permanent injunctive relief to enjoin Defendants from preventing St. Vincent from continuing to operate at the Property based on the Commission's denial of the special permit application, an order directing the Commission to issue St. Vincent a special permit to operate from the Property, compensatory damages, and attorneys' fees and costs, pursuant to 42. U.S.C. § 1988.

COUNT V

**United States Constitution
42 U.S.C. § 1983: Fourteenth Amendment
Equal Protection**

162. Paragraphs 1 through 137 and 150 through 151, and 153 are incorporated by reference as if set forth fully herein.

163. Plaintiffs are a "class of one" and are protected by the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

164. Defendants have arbitrarily and selectively interpreted and enforced the Zoning Regulations and land use laws, and have singled out Plaintiffs for arbitrary and selective enforcement by denying St. Vincent's special permit application to operate at the Property and providing services and programs substantially similar to those that the City permits other similarly situated religious institutions to conduct.

165. Defendants have arbitrarily and selectively interpreted and enforced the Zoning Regulations and land use laws, and have singled out St. Vincent for arbitrary and selective enforcement by denying its special permit application to operate at the Property and providing services and programs substantially similar to those that the City permits other similarly situated nonreligious institutions to conduct.

166. This differential treatment was based on impermissible considerations, including but not limited to unsubstantiated community opposition to St. Vincent.

167. The City has no compelling interest or other justification for its discriminatory conduct.

168. By singling out Plaintiffs for unequal, adverse treatment, and bowing to the pressure from neighborhood opponents, Defendants have deprived and continue to deprive Plaintiffs of their rights, remedies, privileges, and immunities guaranteed to every citizen of the United States, in violation of 42 U.S.C. § 1983, including, without limitation, the right to equal protection of the laws guaranteed by the Fourteenth Amendment to the United States Constitution.

Relief Requested

169. Plaintiffs are accordingly entitled to such relief as the Court finds to be

appropriate, including but not limited to a declaration that the denial of St. Vincent's special permit application is void, invalid, and unconstitutional, temporary, preliminary, and permanent injunctive relief to enjoin Defendants from preventing St. Vincent from continuing to operate at the Property based on the Commission's denial of the special permit application, an order directing the Commission to issue St. Vincent a special permit to operate from the Property, compensatory damages, and attorneys' fees and costs, pursuant to 42 U.S.C. § 1988.

COUNT VI

**United States Constitution
42 U.S.C. § 1983: First and Fourteenth Amendments
Prior Restraint**

170. Paragraphs 1 through 137 are incorporated by reference as if set forth fully herein.

171. The standards set forth in the City's Zoning Regulations governing special permit applications and the standards applied by the Commission in reviewing and denying St. Vincent's special permit application did not, and do not, provide Plaintiffs, or other religious institutions, as persons of ordinary intelligence, a reasonable opportunity to understand whether such land uses are permitted or prohibited and, as such, constitutes an unconstitutional prior restraint on St. Vincent's protected expression and religious exercise under the First Amendment. Such standards unconstitutionally afford the Commission unbridled discretion, as applied, in its review of St. Vincent's special permit application.

172. Defendants have deprived and continue to deprive Plaintiffs of their rights, remedies, privileges, and immunities guaranteed to every citizen of the United States, in

violation of 42 U.S.C. § 1983, including, without limitation, the right to freely exercise their religious, as guaranteed by the Fourteenth Amendment to the United States Constitution.

Relief Requested

173. Plaintiffs are accordingly entitled to such relief as the Court finds to be appropriate, including but not limited to a declaration that the standards set forth in the City's Zoning Regulations governing special permit applications in the MF District are an unconstitutional prior restraint on protected expression and religious exercise under the First Amendment, temporary, preliminary, and permanent injunctive relief to enjoin Defendants from preventing St. Vincent from continuing to operate at the Property based on the Commission's denial of the special permit application, an order directing the Commission to issue St. Vincent a special permit to operate from the Property, compensatory damages, and attorneys' fees and costs, pursuant to 42. U.S.C. § 1988.

COUNT VII

**Connecticut General Statutes
Section 8-8**

174. Paragraphs 1 through 137 are incorporated by reference as if set forth fully herein.

175. Legal Notice of the Decision was published in *Norwich Bulletin* on December 21, 2012.

176. A letter was received from the Commission setting forth as the only reason for denial: “[c]hange of use is not harmonious with a residential neighborhood.”

177. Under Connecticut law, a court need not and does not look beyond the reasons given by the collective decision of the Commission.

178. As the property owner and applicant, Plaintiffs are statutorily and classically aggrieved by the Decision for purposes of taking this appeal because they have specific, personal, and legal interests in the Decision and their interests are specially and injuriously affected by the Decision. St. Vincent's and the Church's ability to freely exercise their religious beliefs has been immediately, severely, and irreparably harmed.

179. The Commission's action in denying St. Vincent's special permit application was illegal, unlawful, arbitrary, capricious, contrary to the substantial evidence in the record, and in abuse of the powers vested in the Commission under the statutes of the State of Connecticut and the Zoning Regulations for one or more of the following reasons:

- a. The Commission denied the application despite the fact that the proposal complied with all substantive requirements of the applicable Zoning Regulations;
- b. The Commission failed to consider or apply RLUIPA or the requirements of the U.S. Constitution, or the Connecticut Constitution when reviewing and deciding the Application.
- c. The Commission improperly credited anecdotal and lay testimony of neighbors over expert and other testimony and evidence provided by or on behalf of St. Vincent; and
- d. The Commission improperly applied the special permit criteria of the Zoning Regulations; and
- e. The Commission's denial of the application is not supported by substantial evidence in the record.

Relief Requested

180. Plaintiffs pray that the Court: (a) sustain the appeal and render judgment in favor of Plaintiffs; (b) based upon the law and the administrative record, reverse the Decision and direct the Commission to approve the special permit; (c) in the alternative, vacate the special permit denial and remand to the Commission for further proceedings to address the defects set forth above; (d) award costs as provided by § 8-8(l) of the General Statutes; (e) temporarily restrain Defendants from preventing St. Vincent's operation at the Property due to the denial of the special permit until adjudication on the merits of this action pursuant to § 8-8(h); (f) grant such other relief as in law or equity may apply.

COUNT VIII

**Connecticut Religious Freedom Act
Connecticut General Statutes § 52-571b**

181. Paragraphs 1 through 137, 139 through 147, and 156 through 160 are incorporated by reference as if set forth fully herein.

182. Defendants have deprived and continue to deprive St. Vincent and the Church of their rights to the free exercise of their religion, as secured by Connecticut General Statutes § 52-571b, by imposing and implementing a land use regulation that discriminates against Plaintiffs on the basis of their religious beliefs and burdens Plaintiffs' religious exercise in a manner that neither furthers a compelling governmental interest nor uses the least restrictive means to achieve any interest.

Relief Requested

183. Plaintiffs are accordingly entitled to such relief as the Court finds to be

appropriate, including but not limited to a declaration that the denial of St. Vincent's special permit application is void, invalid, and unconstitutional, temporary, preliminary, and permanent injunctive relief to enjoin Defendants from preventing St. Vincent from continuing to operate at the Property based on the Commission's denial of the special permit application, an order directing the Commission to issue St. Vincent a special permit to operate from the Property, compensatory damages, and attorneys' fees and costs.

COUNT IX

**Connecticut State Constitution
Article I § 3
Freedom of Worship; Religious Liberty**

184. Paragraphs 1 through 137, 139 through 147, 156 through 160, and 182 are incorporated by reference as if set forth fully herein.

185. Defendants have deprived and continue to deprive Plaintiffs of their right to freedom of worship and religious liberty, as secured by Article I, § 3 of the Connecticut Constitution by imposing and implementing the City's land use and zoning laws and regulations in the manner described above, and by the conduct described above.

186. Defendants have caused, and continue to cause, Plaintiffs to suffer immediate injury and irreparable harm.

Relief Requested

187. Plaintiffs are accordingly entitled to such relief as the Court finds to be appropriate, including but not limited to a declaration that the denial of St. Vincent's special permit application is void, invalid, and unconstitutional, temporary, preliminary, and permanent injunctive relief to enjoin Defendants from preventing St. Vincent from continuing to operate at

the Property based on the Commission's denial of the special permit application, an order directing the Commission to issue St. Vincent a special permit to operate from the Property, compensatory damages, attorneys' fees, all costs and disbursements, and such other further relief as the Court deems equitable, just, and proper.

COUNT X

**Connecticut State Constitution
Article I § 5
Equal Protection of Laws**

188. Paragraphs 1 through 137, 150 through 151, 153, and 163 through 168 are incorporated by reference as if set forth fully herein.

189. Defendants have arbitrarily and selectively interpreted and enforced the Zoning Regulations and land use laws, and have singled out Plaintiffs for arbitrary and selective enforcement by denying St. Vincent's special permit application to operate at the Property and providing services and programs substantially similar to those that the City permits other similarly situated religious institutions to conduct.

190. Defendants have arbitrarily and selectively interpreted and enforced the Zoning Regulations and land use laws, and have singled out St. Vincent for arbitrary and selective enforcement by denying its special permit application to operate at the Property and providing services and programs substantially similar to those that the City permits other similarly situated nonreligious institutions to conduct.

191. By singling out Plaintiffs for unequal, adverse treatment, and bowing to the pressure from neighborhood opponents, Defendants have deprived and continue to deprive Plaintiffs of their rights, remedies, privileges, and immunities guaranteed to every citizen of the

State of Connecticut, in violation of Article I, § 5 of the Connecticut Constitution, including, without limitation, the right to equal protection of the laws.

192. The City has no compelling interest or other justification for its discriminatory treatment.

Relief Requested

193. Plaintiffs are accordingly entitled to such relief as the Court finds to be appropriate, including but not limited to a declaration that the denial of St. Vincent's special permit application is void, invalid, and unconstitutional, temporary, preliminary, and permanent injunctive relief to enjoin Defendants from preventing St. Vincent from continuing to operate at the Property based on the Commission's denial of the special permit application, an order directing the Commission to issue St. Vincent a special permit to operate from the Property, compensatory damages, attorneys' fees, all costs and disbursements, and such other further relief as the Court deems equitable, just, and proper.

PLAINTIFFS,

ST. VINCENT DE PAUL PLACE,
NORWICH, INC. AND THE ST.
JOSEPH'S POLISH ROMAN
CATHOLIC CONGREGATION

By /s/ Brian Smith

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CERTIFICATE OF SERVICE

I hereby certify that on September 15, 2014, a copy of the foregoing was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF System.

/s/ Brian Smith _____

Brian R. Smith