

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

GURU GOBIND SINGH SIKH CENTER INC.,
a Delaware Not-For-Profit corporation,

Plaintiff,

vs.

TOWN OF OYSTER BAY, N.Y., TOWN
BOARD OF THE TOWN OF OYSTER BAY,
SUPERVISOR JOHN VENDITTO, individually
and in his official capacity as supervisor,
COUNCILMAN JOSEPH D. MUSCARELLA,
individually and in his official capacity as
councilman, COUNCILMAN ANTHONY
MACAGNONE, individually and in his official
capacity as councilman, COUNCILMAN CHRIS
J. COSCHIGNANO, individually and in his
official capacity as councilman, COUNCILMAN
JOSEPH G. PINTO, individually and in his
official capacity as councilman,
COUNCILWOMAN REBECCA M. ALESIA,
individually and in her official capacity as
council woman, and COUNCILWOMAN
MICHELE M. JOHNSON, individually and in
her official capacity as council woman,

Defendants.

Civil No.

2:16-cv-03600

COMPLAINT

COMPLAINT

Plaintiff GURU GOBIND SINGH SIKH CENTER INC., a Delaware not-for-profit corporation (the “Temple”), by and through its attorneys, Savad Churgin, LLP and Storzer & Associates, P.C., hereby complains of Defendants TOWN OF OYSTER BAY, N.Y. (the “Town”), TOWN BOARD OF THE TOWN OF OYSTER BAY (the “Town Board”), JOHN VENDITTO, JOSEPH D. MUSCARELLA, ANTHONY MACAGNONE, CHRIS J. COSCHIGNANO, JOSEPH G. PINTO, REBECCA M. ALESIA, and MICHELE M. JOHNSON (collectively, the “Defendants”) as follows:

NATURE OF ACTION

1. This action is commenced by the Temple to redress violations of civil rights, as protected by the Free Exercise and Equal Protection Clauses of the United States Constitution, 42 U.S.C. § 1983, the Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C. § 2000cc *et seq.* (“RLUIPA”), and the New York Constitution caused by the Defendants’ burdensome, discriminatory, and unreasonable land use regulations and intentional conduct that have prohibited and continue to prohibit the Temple from finalizing construction of its near-complete Sikh Temple located at 1065 Old Country Road, Plainview, New York, designated as Section 47, Block 7, Lots 35 & 36 on the Nassau County Land and Tax Map (“NCLTM”) (the “Property”), leaving it without a place of worship for its congregation.

2. In 2014, the Town of Oyster Bay granted various approvals for the Temple to demolish its existing house of worship (“temple” or “*gurdwara*”), which had been serving an established Sikh religious community for twenty-nine years in Oyster Bay, in order to construct a new *gurdwara* on the same property as the existing *gurdwara*. However, after demolition of the existing *gurdwara* building and just prior to the completion of construction of the Temple’s new

gurdwara, comprising approximately 18% of the total construction costs, the Town issued a stop work order preventing the completion of interior electrical, drywall, and other work to allow the Temple's congregation to worship again as a community in its *gurdwara*. After various negotiations with the Town, the stop work order had been lifted and a new site plan was approved. However, the Town Board then adopted a new and unprecedented resolution specifically targeting the Temple and preventing construction from being completed by "suspending" the Temple's site plan approval. Such actions were taken to appease certain local residents hostile towards the Temple and its religious worship.

3. The Town has now prevented the Temple from completing construction on its near-finished *gurdwara* unless, as required by the Town, the Temple re-applies for site plan approval yet again, and the Town has taken the position that such site plan will now be subject to review by the Town Board under the State Environmental Quality Review Act, which could delay completion of the Temple's new *gurdwara* for many years. In the meantime, the Temple's congregation is left without a place for worship and conducting prayers, and the Temple cannot provide its congregants' children with religious education, hold weddings and funerals, house its sacred texts, and engage in various other Sikh religious exercises of sincerely held religious beliefs. This substantial burden on the Temple's religious exercise is not based on any legitimate governmental interests, but rather targets the Temple unreasonably and on the basis of religion, and treats the Temple differently and worse than other religious entities within the Town.

PARTIES

4. Plaintiff GURU GOBIND SINGH SIKH CENTER INC. is a Delaware not-for-profit corporation formed under the Laws of the State of Delaware on January 4, 1999. The

Temple is authorized to do business in the State of New York.

5. Defendant TOWN OF OYSTER BAY, N.Y. is a municipal corporation organized and existing under the laws of the State of New York, having offices at 54 Audrey Avenue, Oyster Bay, N.Y. 11771, which, through the governing body, adopted the land use regulations in question in this matter.

6. Defendant TOWN BOARD OF THE TOWN OF OYSTER BAY is the legislative body of the Town of Oyster Bay, N.Y.

7. Upon information and belief, Defendant John Venditto is the Supervisor of the Town of Oyster Bay with a place of business at 54 Audrey Avenue, Oyster Bay, N.Y. 11771.

8. Upon information and belief, Defendant Joseph D. Muscarella is a Council Member of the Town of Oyster Bay with a place of business at 54 Audrey Avenue, Oyster Bay, N.Y. 11771.

9. Upon information and belief, Defendant Anthony Macagnone is a Council Member of the Town of Oyster Bay with a place of business at 54 Audrey Avenue, Oyster Bay, N.Y. 11771.

10. Upon information and belief, Defendant Chris J. Coschignano is a Council Member of the Town of Oyster Bay with a place of business at 54 Audrey Avenue, Oyster Bay, N.Y. 11771.

11. Upon information and belief, Defendant Joseph G. Pinto is a Council Member of the Town of Oyster Bay with a place of business at 54 Audrey Avenue, Oyster Bay, N.Y. 11771.

12. Upon information and belief, Defendant Rebecca M. Alesia is a Council Member of the Town of Oyster Bay with a place of business at 54 Audrey Avenue, Oyster Bay, N.Y. 11771.

13. Upon information and belief, Defendant Michelle M. Johnson is a Council Member of the Town of Oyster Bay with a place of business at 54 Audrey Avenue, Oyster Bay, N.Y. 11771.

JURISDICTION AND VENUE

14. The subject matter jurisdiction of this Court is founded upon 28 U.S.C. § 1331 (federal question jurisdiction) in that this action is brought under 42 U.S.C. § 2000cc *et seq.* and 42 U.S.C. § 1983. This Court also has supplemental jurisdiction over Counts VI and VII under 28 U.S.C. § 1367(a) for claims brought under law of the State of New York.

15. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) in that all of the events giving rise to the claims herein occurred in this District, and the Defendants are subject to personal jurisdiction in this District as of the commencement of this action.

FACTUAL ALLEGATIONS

Plaintiff's Religious Exercise

16. The Temple was founded for the purpose of serving as a house of worship for religious exercise within Oyster Bay, New York.

17. The Temple is a Sikh religious organization.

18. A Sikh place of worship has operated at the Property since 1987, initially by a corporation named Sikh Forum, Inc. and then in 1999 under the auspices of the Plaintiff.

19. Approximately 80% of the Temple's congregation resides in Oyster Bay.

20. Sikhism is a monotheistic religion that originated in the Punjab region of South Asia in the 15th century.

21. Adherents of the Sikh religion require a place of worship, known as a *gurdwara* ("door to the Guru") as a location in which they can engage in religious exercise.

22. A *gurdwara* contains a *Darbar Sahib*, the main hall within the *gurdwara*, where the holy text, the *Guru Granth Sahib*, is placed on a *tahkat*, or throne.

23. The Temple and its congregants believe that it is the religious duty of all Sikhs to engage in personal and communal meditation, *kirtan* (i.e., singing of praise of the divine as expressed in hymns and compositions), and study of the holy scriptures.

24. The Temple believes that adherents of the Sikh religion must study *Gurmukhi* script and be able to read *Gurbani*, which are compositions of Sikh gurus and other writers of the *Guru Granth Sahib*.

25. The Temple believes that Sikhs must revert to the *Guru Granth Sahib* for all spiritual guidance in one's life.

26. The Temple further believes that Sikhs are more deeply engrossed by *Gurbani* when engaged in congregational gatherings.

27. After the Temple was incorporated, in order to fulfill the Temple's religious mission, it continued operating the *gurdwara* on the Property, which was previously purchased from a former Christian church.

28. The Temple's *gurdwara* was the first such place of worship on Long Island.

29. Before demolition, the Temple's prior *gurdwara* was used for various religious purposes, including worship, prayers, religious education and counseling, charitable service, a library for religious texts, and other religious ceremonies and activities.

30. Worship services were held on Friday evenings and Sunday from the late morning to early afternoon at the prior *gurdwara*.

31. The prior *gurdwara* was also the Temple's location for the religious practice of *Shabad Kirtan* (the singing of hymns) and *Paath* (religious discourse and reading of *Gurbani* from the *Guru Granth Sahib*).

32. Sikhs are obligated to engage in prayers twice daily. The prior *gurdwara* was the Temple's location for a brief service every day at sunrise and sunset.

33. The prior *gurdwara* was also the location for the Temple's *Langar* hall, which provided free vegetarian food and which is necessary for the religious practices of *Sangat* and *Pangat* in the Sikh religion.

34. The Temple also offered religious education programs and summer camps at its *gurdwara*.

35. The prior *gurdwara* was also the location for *Seva* (selfless service), a religious obligation that is often performed at a Sikh temple.

36. The prior *gurdwara* was also a gathering place for the senior citizens in the Temple's congregation.

37. In order to accommodate the Temple's growing need for an adequate facility for religious exercise, the Temple required a new *gurdwara* to meet the needs of its congregation.

38. As described below, based on the Defendant Town's approvals to build a new *gurdwara*, and the issuance of a Building Permit on March 3, 2014, the Temple demolished its prior *gurdwara*, and presently has no location in which to adequately engage in such religious exercise.

39. The Temple and its members cannot now engage in many religious programs.

40. The Temple requires a physical site for its holy book, the *Guru Granth Sahib*. The Sikh religion requires that the *Guru Granth Sahib* be installed under a canopy or in a canopied seat on a platform. It is the focal point in any *gurdwara*; congregants sit on the floor and bow before it. The Temple's current makeshift facilities (in an existing adjacent single family home) are

insufficient for this purpose and do not allow the Temple's congregation to meet and worship adequately.

41. Prior to the demolition of the Temple's prior *gurdwara*, it held worship services for approximately one hundred and fifty congregants.

42. Currently, the Temple conducts minimal worship activities in a single-family home that can accommodate only about fifteen people.

43. Furthermore, the Temple's worship services and other activities are not offered on Fridays and Sundays, as they previously had been.

44. The Temple no longer can adequately engage in the religious practice of *Paath*.

45. The Temple no longer can adequately engage in the religious practice of *Shabad Kirtan*.

46. The Temple lacks a *Langar* hall and adequate facilities for its religious practices of *Sangat* and *Pangat*.

47. The Temple lacks space for its library of religious texts.

48. The Temple lacks space for religious classrooms and other educational facilities. The Temple is currently unable to teach children *Gurmukhi* or to have summer camp.

49. The Temple lacks space for senior citizens to gather or for professionals to perform volunteer services.

50. The Temple no longer has a location to organize charitable work in the wider community on behalf of Sikhs, which is the religious exercise of *Seva*.

51. The Temple does not have a facility to perform various other religious ceremonies, including the *Anand Karaj* (marriage ceremony), *Naam Karan* (baby naming ceremony), *Amrit Sanchar* (baptism), *Dastar Bandhi* (turban tying coming of age ceremony) and *Antim Ardaas*

(funerals).

52. The Temple lacks a space for important Sikh festivals, where the Temple's congregants celebrate the high holy days.

The Property

53. The Property is 1.12 acres in size.

54. The Property is located in a R1-7 zoning district in the Town of Oyster Bay.

55. "Places of worship" are a permitted principal use in the R1-7 zoning district.

56. The Property is located on Old Country Road, a four-lane roadway with a center lane for turning movements.

57. The Property is located in the immediate vicinity of various commercial and institutional land uses, including a shopping center with a hardware store, CVS pharmacy, UPS store, Dunkin' Donuts and Chase Bank across Old Country Road, a Panera Bread, a bank and the Plainview Diner across the street in the other direction; a dental office and auto repair shop to the east on the same side of Old Country Road, a public library to the west, and residential uses to the south.

58. In 1995 and 2009, respectively, the Temple purchased two adjacent properties developed with residences and located at 10 and 12 Hope Court.

59. The Temple also purchased the nearby 16 Cynthia Lane in July of 2015.

The Town's Relevant Land Use Regulations

60. The Town regulates land use within its jurisdiction in part through Chapter 246 ("Zoning") of the Code of the Town of Oyster Bay (the "Code").

61. "Places of worship" are permitted as a "Permitted Principal Use" in Oyster Bay's

R1-7 zoning district.

62. Specific requirements for a place of worship in Oyster Bay are:

The minimum *lot area* shall be one acre. Temporary *structures*, such as tents which are accessory to places of worship, shall be permitted to extend into required yards, provided that such placement of temporary *structures* is limited to two weeks' duration during any calendar year. Customary *accessory uses* associated with a place of worship shall include a carnival, subject to the approval by the Department of Planning and Development and provided such carnival is limited to two weeks' duration during any calendar year. Full-curriculum religious schools shall be subject to the same requirements as *private schools*.

(Town of Oyster Bay Code § 5.5.19.) The Temple's Property meets these requirements.

63. The Town of Oyster Bay's "Schedule of Off-Street Parking and Loading Requirements" states that "Places of worship" are subject to the following off-street parking space requirements: "1 per 3 seats or, if no seats, 1 per 100 sq. ft. of floor space used for public assembly."

64. The Town of Oyster Bay requires site plan approval for certain land uses by either the Town Board, the Planning Advisory Board, or the Department of Planning and Development, depending on certain circumstances.

65. With respect to the Temple's site plan application described below, site plan approval by the Department of Planning and Development was required and granted.

66. Site plan approval is required prior to the issuance of building permits and certificates of occupancy.

The Temple's Approved Application, the Stop Work Order,
and the Resolution Targeting the Temple

67. The Temple's congregation has been growing as an increasing number of Sikhs have been moving to Nassau County.

68. In order to replace the Temple's prior *gurdwara* on the Property with a new *gurdwara* that accommodated the Temple's religious exercise, the Temple was required to apply

for site plan approval to build a new *gurdwara*.

69. On January 22, 2014, the Temple submitted its site plan application to the Town's Department of Planning and Development for the Temple's new *gurdwara*.

70. The site plan showed that the Temple would be providing 64 spaces for parking.

71. On February 21, 2014, the Town approved the site plan that had been submitted on January 22, 2014 for the Temple's new *gurdwara* construction.

72. On March 7, 2014, the Town issued the building permit to construct the Temple's new *gurdwara* on the Property.

73. Town officials stated that the Temple received all the necessary permits to construct the new *gurdwara*.

74. In conjunction with the building permit, the Town deposited the Temple's check for \$30,947 for the application fee.

75. In or about September 2014, the Temple began demolition of its prior *gurdwara* on the Property.

76. The Temple demolished its prior *gurdwara* based on the approvals granted by the Town.

77. In or about October 2014, the Temple began construction on its new *gurdwara*.

78. The Temple's congregation expected the new *gurdwara* to be completed by the summer of 2015.

79. After construction on the new *gurdwara* began, various local residents opposed to construction of the new *gurdwara* began complaining to the Town about the Temple's use of its Property.

80. For example, upon information and belief, a neighbor of the Temple stated that he

did not want to wake up in the morning to the smell of curry.

81. Upon information and belief, another neighbor to the Temple's immediate east made derogatory remarks about the Temple and about the people who attend the Temple.

82. On July 2, 2015, the Town issued a stop work order (the "July Stop Work Order") requiring the Temple to cease construction of its new *gurdwara*.

83. The July Stop Work Order was a direct response to local resident's complaints about the Temple.

84. Construction of the *gurdwara* was nearly complete at this point. The following is a true and accurate photograph, taken on May 13, 2016, of the construction in place:



85. The Town had made multiple inspections of the construction work prior to the issuance of the July Stop Work Order.

86. The "Comments" section of the Stop Work Order reads as follows:

ALL WORK MUST STOP IMMEDIATELY “AS PER ADMIN” -- WORK DOES NOT COMPLY W/ SITEWORK PLAN OR OFF STREET PARKING PLAN.

(Emphasis in original.)

87. The Site Plan as approved by the Town did not require off street parking at any location other than the Temple's Property.

88. The Site Plan as approved by the Town stated that the Temple would be providing 64 spaces.

89. Under these circumstances, there was no basis for the Town to issue the July Stop Work Order.

90. However, in order to attempt to work with the Town, from 2015 through January 2016, the Temple attempted to resolve the dispute with the Town by revising its site plan to address concerns of local residents. No formal application for a revised site plan was submitted to the Town.

91. In July 2015, at the Town's direction, the Temple acquired an adjacent lot at 16 Cynthia Lane (NCLTM Sec. 47, Block 7, Lot 38, 39) (the "Cynthia Lane Lot"), which is located to the southwest of the Property, to provide additional parking spaces.

92. However, local residents then complained to the Town about the possibility of cars parking on the Cynthia Lane Lot, and, therefore, the Temple abandoned that plan at the Town's suggestion.

93. In December 2015, the Town stated that there was sufficient parking available on the Property (*i.e.*, the original *gurdwara* parcel), and, therefore, there was no need to provide parking on the Cynthia Lane Lot.

94. The Town's land use regulations require one parking space for every "100 sq. ft. of

floor space used for public assembly” if there is no fixed seating. (Town Code 246 Attachment 22.)

95. Sikh *gurdwaras* do not use fixed seating, as each congregant sits on the floor.

96. The Town and the Temple agreed that the “floor space used for public assembly” of the new *gurdwara* is 2,166 square feet.

97. Upon information and belief, for other places of worship in Oyster Bay, the Town has similarly used the sanctuary area as the “floor space used for public assembly.”

98. The parking requirement for the Temple’s new *gurdwara* is therefore 21 parking spaces. The 64 parking spaces that the Temple proposed to provide in its site plans, which were approved by the Town in February 2014, are significantly above this required minimum.

99. In order to accommodate a resolution of the Town’s request, the Temple ultimately submitted to the Town a new site plan that (i) added onsite parking that could only be accessed from Old Country Road and (ii) provided for fencing and trees to limit any visual impact on nearby homes.

100. The Temple’s new site plan added more parking spaces on two additional adjacent lots which the Temple acquired (the “Adjoining Lots”).

101. The main Temple lot would have provided 72 parking spaces in the new site plan.

102. The proposed 72 parking spaces are well above the required minimum of 21 spaces.

103. The new site plan included six-foot arborvitae to be planted along the entire perimeter of the Property and Adjoining Lots, excluding driveways.

104. On January 21, 2016, Town’s Commissioner of Planning and Development, Frederick Ippolito, approved the Temple’s new site plan at a meeting with several Temple representatives.

105. On January 21, 2016, Ippolito notified the Temple that the July Stop Work Order was lifted.

106. On January 22, 2016, the Temple's architect, Angelo Corva, sent a letter to Ippolito thanking him for lifting the July Stop Work Order and enclosing the Temple's new site plan that Ippolito had approved and which contained 72 parking spaces.

107. The Temple informed the company that was installing the construction fence, which then received independent confirmation from the Town, that the July Stop Work Order had been lifted.

108. The new site plan that the fencing company received was dated January 22, 2016, and indicated that there would be 72 parking spots on the site.

109. On January 26, 2016, the Temple's architect sent a follow-up letter to Ippolito.

110. Also on January 26, 2016, Ippolito pleaded guilty to tax evasion and is no longer employed with the Town.

111. On February 2, 2016, after the Town had approved the Temple's new site plan on January 22, 2016, and had communicated such approval to the Temple and to the fencing company, the Town Board adopted Resolution No. 65-2016 (the "Resolution"), which "suspended" the site plan approval issued to the Temple.

112. The Resolution also indicated that Defendant Venditto had issued an executive order that the site plan approval be suspended immediately, although no such "executive order" has ever been provided to the Temple.

113. The Town Board took this action directly, despite the fact that the Town had two active Assistant Commissioners in the Zoning and Planning Department, Timothy Zike and Diana Aquair, who could have taken such action.

114. The Resolution erroneously states that the Temple “is not in compliance with the contingency requiring applicant to acquire the premises at 1082 Old Country Road, Plainview, New York, to provide adequate parking for the application;”

115. No such “contingency” ever existed.

116. The arbitrary nature of the Town’s action is evident by the fact that the property at 1082 Old Country Road has a “Panera Bread” franchise operating on it and is not available for lease or purchase. Even if that property had been available, it is located across from Old Country Road, a four-lane roadway with a center lane for turning movements, with no pedestrian crosswalk or signaled intersection nearby which has a 40 miles per hour speed limit.

117. One congregant of the Temple, Dr. Gurcharan Singh, was recently killed by a hit and run driver while attempting to cross Old Country Road to visit the Temple.

118. There is no reasonable basis to require the Temple to acquire the property at 1082 Old Country Road, or any property located across Old Country Road from the *gurdwara*, for parking, and the use of such property for Temple parking would be contrary to the Town’s interest in traffic and pedestrian safety.

119. Town officials have repeatedly and consistently ignored their own zoning ordinances in order to force the Temple to provide more parking spaces than is required under the Code. The Town had also prevented the Temple’s congregants from using the unfinished *gurdwara*’s parking lot by closing the gate during a religious ceremony on April 14, 2016.

120. The Resolution states that Defendant Councilwoman Rebecca Alesia “requested that the Supervisor issue an Executive Order suspending the Site Plan Approval originally issued to Guru Gobino [sic] Singh Sikh Temple”

121. Upon information and belief, Defendant Councilwoman Rebecca Alesia met with

neighbors of the Temple who expressed their opposition to the Temple's new *gurdwara*, and Alesia had promised to work to address their concerns.

122. The Resolution directed that the Town Board would act as an oversight committee for the application.

123. On February 18, 2016, Town Deputy Commissioner Timothy R. Zike wrote a letter to the Temple, telling the Temple that it would have to reapply for site plan approval.

124. Zike also wrote: "Additionally, an environmental review (pursuant to the New York State Environmental Quality Review laws) will be required as part of this process and subject to review by the Town's Department of Environmental Resources." (Emphasis added.)

125. The Resolution itself did not state that environmental review under the New York State Environmental Quality Review Act ("SEQRA") would be necessary.

126. Upon information and belief, the Town had not required other land uses including places of worship to submit to an environmental review process under SEQRA.

127. The Temple was not previously required to undergo SEQRA review in connection with its new *gurdwara*, and such review is not required by SEQRA's implementing regulations, codified at N.Y. Comp. Codes R. & Regs. § 617.5, because the new *gurdwara* would be a replacement of a structure, in kind, on the same site.

128. Even if SEQRA review would have been required initially, it would be burdensome and unreasonable to require such review now, after the Temple has already demolished its prior *gurdwara* and after construction of the new *gurdwara* is already approximately 82% completed.

129. Undertaking a SEQRA review process entails several stages of review and would take several years.

130. First, the lead agency would have to make an initial determination of environmental

significance.

131. If the lead agency determines that the Temple has the potential for at least one significant adverse environmental impact, the lead agency would then require the applicant to submit an Environmental Impact Statement (“EIS”) evaluating the environmental impact of the project.

132. Preparation of an EIS involves several steps. The Temple would be required to prepare:

- A draft EIS (“DEIS”); and
- A final EIS (“FEIS”).

133. The Temple would be required to seek feedback at each stage from the public and approval from the lead agency.

134. This SEQRA review process would take years and would leave the Temple’s congregants without an adequate place to worship during that entire timeframe.

135. If the Town had required the Temple to engage in the SEQRA review process at the beginning of the application process, the Temple could have maintained religious exercise in its prior *gurdwara*, without demolishing it, during the lengthy environmental review.

136. In addition to the hardships associated with engaging in the SEQRA review process, the process would be moot as the new *gurdwara* is approximately 82% complete.

137. Based on the Town’s approvals and other actions, the Temple had a reasonable expectation that it would be able to construct and conduct religious exercises in the new *gurdwara*.

138. The Defendants’ actions severely impede and prevent the Temple’s exercise of religion.

139. The Town’s actions targeting the Temple took place within a system of formal

procedures that permitted the Defendants to make individualized assessments for the uses for the property involved.

140. The Temple has spent more than \$2,000,000 on the costs of construction, labor and materials.

141. In order to attempt to accommodate the Town's unreasonable requests, the Temple has incurred more than \$1,100,000 additional expenses since the issuance of the July Stop Work Order.

142. The Temple's operation affects interstate commerce by or through, amongst other things, serving as a site for ongoing fundraising; its receipt of charitable donations from persons working or living outside of the State of New York; the use of means of interstate communication to facilitate the Temple's ongoing operations and construction; the use of interstate travel-related to the Temple's ongoing operations; and the purchase of goods and services related to the Temple's ongoing operations, maintenance, and construction.

143. The Defendants' actions described above all took place under color of state law.

144. The Defendants were informed of the applicability of RLUIPA to their actions.

145. Upon information and belief, the Defendants knew or should have known that their actions were contrary to Plaintiff's statutory or constitutional rights.

146. Upon information and belief, the Defendants have not taken similar actions, or adopted a similar Resolution, against other religious and nonreligious land use applicants.

147. The harm to the Temple caused by the Defendants' laws and actions, which prevent the Temple from using the Property to accommodate religious needs, is immediate and severe.

148. The Temple has cancelled religious gatherings and has not scheduled other religious gatherings because of the Defendants' actions.

149. Defendants' laws and actions imminently threaten to substantially burden the Temple and its congregants' free exercise of religion.

150. There are no quick, reliable, and viable alternative options for the Temple's operations.

151. The Temple has no adequate remedy at law for the harm and damage caused by Defendants' wrongful laws and actions.

152. The Temple has also suffered significant financial damages as a result of the Defendants' laws and their application to the Temple.

153. The Temple has suffered a significant loss of more than \$1,500,000 in charitable contributions as a result of the Defendants' laws and actions.

154. The Temple has been forced to pay various additional costs and legal fees related to the Property as a result of the Defendants' laws and actions.

COUNT I

Violation of Religious Land Use and Institutionalized Persons Act of 2000 – "Substantial Burdens" 42 U.S.C. § 2000cc(a)

155. Paragraphs 1 through 154 are incorporated by reference as if set forth fully herein.

156. Defendants have deprived and continue to deprive the Plaintiff of its right to the free exercise of religion, as secured by RLUIPA, by imposing and implementing land use regulations both on their face and as applied in a manner that places substantial burden on the Plaintiff's religious exercise without using the least restrictive means of achieving a compelling governmental interest.

COUNT II

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

157. Paragraphs 1 through 156 are incorporated by reference as if set forth fully herein.

158. Defendants have deprived and continue to deprive the Plaintiff of its right to the free exercise of religion, as secured by RLUIPA, by imposing and implementing land use regulations both on their face and as applied in a manner that discriminates against it on the basis of religion and religious denomination.

COUNT III

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

159. Paragraphs 1 through 158 are incorporated by reference as if fully set forth herein.

160. Defendants have deprived and continue to deprive the Plaintiff of its right to the free exercise of religion, as secured by RLUIPA, by imposing and implementing land use regulations both on their face and as applied in a manner that treats religious land uses on terms that are less than equal to nonreligious assembly and institutional land uses.

COUNT IV

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

161. Paragraphs 1 through 160 are incorporated by reference as if set forth fully herein.

162. Defendants have deprived and continue to deprive the Plaintiff of its right to free

exercise of religion, as secured by the First Amendment to the United States Constitution and made applicable to the States by the Fourteenth Amendment, by substantially burdening its religious exercise without using the least restrictive means of achieving a compelling governmental interest, and by discriminating against it on the basis of religion in a manner that is not the least restrictive means of achieving a compelling governmental interest.

COUNT V

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

163. Paragraphs 1 through 162 are incorporated by reference as if set forth fully herein.

164. Defendants have deprived and continue to deprive the Plaintiff of its right to equal protection of the laws, as secured by the Fourteenth Amendment to the United States Constitution, by discriminating against it in the imposition and implementation of their land use regulations.

COUNT VI

**N.Y. Constitution Article I § 3
Freedom of Worship**

165. Paragraphs 1 through 164 are incorporated by reference as if set forth fully herein.

166. The Defendants, by their acts, have acted under color of law and have conspired and continue to conspire, in breach of the rights of the Plaintiff to protect its interests under the law, in violation of Article I, § 3 (freedom of worship; religious liberty) of the New York State Constitution.

COUNT VII

**N.Y. Constitution Article I § 11
Equal Protection**

167. Paragraphs 1 through 166 are incorporated by reference as if set forth fully herein.

168. The Defendants, by their acts, have acted under color of law and have conspired and continue to conspire, in breach of the rights of the Plaintiff to protect its interests under the law, in violation of Article I § 11 (equal protection of laws; discrimination in civil rights prohibited) of the New York State Constitution.

PRAYER FOR RELIEF

WHEREFORE, the GURU GOBIND SINGH SIKH CENTER INC. respectfully requests that this Court grant the following relief:

1. A declaration that the Town of Oyster Bay's land use ordinances, to the extent that they substantially burden, exclude, unreasonably regulate, and discriminate against the Plaintiff's land use, are void, invalid, and unconstitutional on their face and as applied to the Plaintiff on the ground that they violate the Free Exercise Clause of the First Amendment to the United States Constitution, the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, the Religious Land Use and Institutionalized Persons Act, and the New York State Constitution;
2. A declaration that the July Stop Work Order is void, invalid, and unconstitutional on its face and as applied to the Plaintiff on the ground that it violates the Free Exercise Clause of the First Amendment to the United States Constitution, the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, the Religious Land Use and Institutionalized Persons Act, and the New York State Constitution;
3. A declaration that the Town Board's Resolution No. 65-2016 is void, invalid and unconstitutional on its face and as applied to the Plaintiff on the ground that it violates the Free Exercise Clause of the First Amendment to the United States Constitution, the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, the Religious Land Use and Institutionalized Persons Act, and the New York State Constitution;

4. An order annulling the July Stop Work Order and annulling Resolution 65-2016 of the Town of Oyster Bay, and an order declaring that the new site plan is deemed to be in full compliance with all land use and zoning regulations under the Town's Code;
5. An order directing the Town of Oyster Bay to reverse the July Stop Work Order and Resolution No. 65-2016 and approve the site plan as applied for;
6. Preliminary and permanent orders enjoining the Defendants, their officers, employees, agents, successors, and all others acting in concert with them from applying their laws to the Plaintiff in a manner that violates the Free Exercise Clause of the First Amendment to the United States Constitution, the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, the Religious Land Use and Institutionalized Persons Act, and the New York Constitution, or undertaking any and all action in furtherance of these acts;
7. An award of compensatory damages against Defendants in favor of the Plaintiff, in an amount to be determined at trial for the loss of its rights under the First and Fourteenth Amendments to the United States Constitution, the Religious Land Use and Institutionalized Persons Act, and the New York State Constitution, incurred by the Plaintiff and caused by the Defendants' laws and actions;
8. An award to the Plaintiff of full costs and attorneys' fees arising out of Defendants' actions and land use decisions and out of this litigation; and
9. An order granting such other and further relief to the Plaintiff as this Court may deem just and appropriate.

DEMAND FOR JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby demands a trial by jury in this action on all issues so triable.

Respectfully submitted by the Plaintiff this 29th day of June, 2016.



PAUL SAVAD, ESQ.

SAVAD CHURGIN, LLP

Paul Savad (PS 5358)

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STORZER & ASSOCIATES, P.C.

Roman P. Storzer, *application for admission
pro hac vice pending*

Robert L. Greene

1025 Connecticut Ave., N.W. Suite 1000

Washington, D.C. 20036

Tel: 202.857.9766

Fax: 202.315.3996

Attorneys for Plaintiff

JS 44 (Rev. 11/15)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

GURU GOBIND SINGH SIKH CENTER INC., a Delaware Not-For-Profit corporation,

(b) County of Residence of First Listed Plaintiff Nassau
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Savad Churgin, LLP (845) 624-3820
55 Old Turnpike Road, Suite 209
Nanuet, NY 10954

DEFENDANTS

TOWN OF OYSTER BAY, N.Y., TOWN BOARD OF THE TOWN OF OYSTER BAY, SUPERVISOR JOHN VENDITTO, individually and in his official capacity as councilman, et al.

County of Residence of First Listed Defendant Nassau
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)
Town Attorney, Town of Oyster Bay (516) 624-6150
54 Audrey Avenue
Oyster Bay, NY 11771

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. Sec. 1983; 42 U.S.C. Sec. 2000cc et seq.

Brief description of cause:
Violations of civil rights; Religious Land Use and Institutionalized Persons act of 2000 (RLUIPA)

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE
06/29/2016

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

I, Paul Savad, counsel for Plaintiff, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- ☐ monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- ☒ the complaint seeks injunctive relief,
- ☐ the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

None

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that "A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? NO
- 2.) If you answered "no" above:
- a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? yes
- b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? yes

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? _____

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.



Yes



No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?



Yes

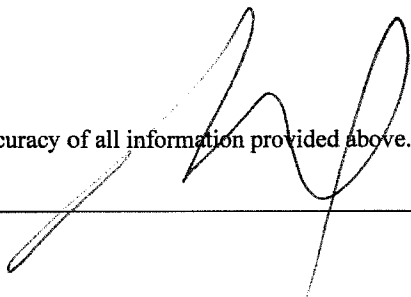
(If yes, please explain)



No

I certify the accuracy of all information provided above.

Signature: _____



AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

GURU GOBIND SINGH SIKH CENTER INC., a
Delaware Not-For-Profit corporation,

Plaintiff(s)

v.

TOWN OF OYSTER BAY, N.Y., TOWN BOARD OF
THE TOWN OF OYSTER BAY, SUPERVISOR
JOHN VENDITTO, individually and in his official
capacity as councilman, COUNCILMAN JOSEPH D.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Town of Oyster Bay, et al.
54 Audrey Avenue, Oyster Bay, N.Y. 11771

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Savad Churgin, LLP
55 Old Turnpike Road, Suite 209
Nanuet, NY 10954
(845) 624-3820

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

DOUGLAS C. PALMER
CLERK OF COURT

Date: 06/29/2016

Signature of Clerk or Deputy Clerk