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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

JESUS CHRIST IS THE ANSWER  
MINISTRIES, INC., a Maryland tax exempt  
nonstock corporation, and REVEREND LUCY  
WARE,

Plaintiffs,

vs.

BALTIMORE COUNTY, MARYLAND  
and BOARD OF APPEALS OF  
BALTIMORE COUNTY, MARYLAND

Defendants.

Civil No.

**COMPLAINT**

Plaintiffs, JESUS CHRIST IS THE ANSWER MINISTRIES, INC., a Maryland tax-exempt nonstock corporation (“the Church”) and REVEREND LUCY WARE, a resident of the State of Maryland (collectively the Church and Reverend Ware shall be referred to as “Plaintiffs”), by and through her attorneys, Storzer & Associates, P.C., and Smith, Gildea & Schmidt, L.L.C.,

hereby complains of Defendants BALTIMORE COUNTY, MARYLAND (the “County”) and BOARD OF APPEALS OF BALTIMORE COUNTY, MARYLAND (the “Board”) (collectively, the County and the Board shall be referred to as “Defendants”) as follows:

### **NATURE OF ACTION**

1. This action is commenced by Plaintiffs to redress violations of their 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 Maryland Constitution caused by the Defendants’ burdensome and discriminatory conduct that has prohibited and continues to prohibit the Plaintiffs from using real property as a small church and residence on a 1.2-acre parcel located at 4512 Old Court Road in Baltimore, Maryland (the “Property”).

2. Jesus Christ is the Answer Ministries, Inc. (the “Church”) has existed for twenty years in Baltimore County (the “County”) without a permanent home. Plaintiffs’ ministries and worship services are severely constrained by the lack of a place of worship. Desperately needing its own facilities, its senior pastor purchased real property in the County in 2012 to use as a small church. The zoning classification of the Property permits places of worship by right.

3. Unfortunately, hostile neighbors intent on preventing the Church from locating within their community have opposed it at every turn. These neighbors made statements such as “You monkeys need to go back to Africa and I will do whatever it takes to make sure you don’t stay here,” and “they dance and holler like they’re in Africa somewhere.”

4. An earlier application to use the property as a place of worship filed by the Plaintiffs with the County and denied by the Baltimore County Board of Appeals (“Board”) ultimately

resulted in an unsuccessful appeal to the Maryland Court of Special Appeals (“*Ware I*”). Subsequently, the Plaintiffs submitted a new and different second application for the church use on the property that addressed the issues raised by the Board and Maryland courts in *Ware I* (“*Ware II*”). The Board refused to substantively review the application in *Ware II*, instead erroneously acceding to these hostile neighbors’ demand to dismiss *Ware II* on principles of “res judicata” and “collateral estoppel.”

5. At this point, the Board’s decision severely and substantially burdens the Plaintiffs’ religious exercise by completely prohibiting any religious exercise on the property, and the Board was knowingly responsive to a hostile community who opposed the Plaintiffs’ applications, constituting discriminatory motivation under RLUIPA and the Constitution. In order to preserve its civil and constitutional free exercise rights, Plaintiffs seek an order providing it the opportunity to present its revised application to the Board of Appeals for substantive review.

### **PARTIES**

6. Plaintiff JESUS CHRIST IS THE ANSWER MINISTRIES, INC. is a tax-exempt nonstock corporation formed under the laws of the State of Maryland on May 21, 1997.

7. Plaintiff LUCY WARE (“Ware”) is a Christian pastor and is the senior pastor of Jesus Christ is the Answer Ministries, Inc., and an adult citizen and resident of the State of Maryland.

8. Defendant BALTIMORE COUNTY is a chartered county of the State of Maryland, having offices at 400 Washington Avenue, Towson, Maryland, which, through the governing body, adopted the land use regulations in question in this matter.

9. Defendant BOARD OF APPEALS OF BALTIMORE COUNTY is a board of appeals duly appointed pursuant to the Chart of Baltimore County, Maryland, Article VI, § 601-602 to consider appeals from orders relating to zoning.

### **JURISDICTION AND VENUE**

10. 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 Count VII under 28 U.S.C. § 1367(a) for claims brought under Maryland law.

11. Venue is proper in this district 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**

12. Reverend Ware was born in Kenya and was active in her family church there until moving to the United States in 1992.

13. Upon moving to the United States, Reverend Ware established Jesus Christ is the Answer Ministries, Inc., in Baltimore, Maryland.

14. From its founding until 2002, Reverend Ware operated the Church largely as a prayer and evangelical ministry for the sick, homeless, drug-addicted and elderly both in Baltimore and other various cities in the United States.

15. The Church is a nondenominational Christian church.

16. Although Reverend Ware was ordained in Baltimore, Maryland in 2005 by a Moderator of the East African Presbyterian Church, the Church is not affiliated with that organization.

17. Reverend Ware has been the senior pastor and spiritual leader of the Church since it was founded over 20 years ago.

18. The Church has associated churches in Kenya and the Seychelles.

19. The Church is multicultural and has approximately forty congregants, including children.

20. The Church's ministry is based upon salvation, deliverance and transformation and healing through Jesus Christ.

21. In 2002, the Church's outreach ministry started meeting at the Reverend Ware's home in Baltimore County, Maryland at 7111 Liberty Road for services.

22. The services were conducted with no more than ten Church members.

23. In July 2002, with the Church growing, it began holding services at a hair salon in Baltimore, Maryland where one of its congregants was employed.

24. Shortly thereafter, the Church began leasing space at Robert Coleman Elementary School in Baltimore, Maryland.

25. During those early years of the Church, it would host Sunday worship services and Wednesday prayer meetings, as well as youth conferences during the Summer months.

26. The Church also led numerous outreach events in Baltimore such as block parties, prayer walks, and reaching out to the poor, homeless, elderly, and refugees.

27. The Church conducted door to door evangelism in the east area of Baltimore City.

28. The Church also performed missionary work globally in Switzerland, the Philippines, the Seychelles, India, Canada and Kenya.

29. The Church continued leasing space at the Robert Coleman Elementary School through April 2012.

30. Due to a change in staffing at the school, the school's facilities became unavailable to the Church.

31. In April 2012, the Church began leasing space at the Radisson Keys Hotel on Falls Road in Baltimore, Maryland. The Church held Sunday worship services at that location.

32. During this time, there was uncertainty from week to week as to whether the Church would have a large enough space at the hotel to accommodate even the Sunday worship service.

33. Outreach efforts of the Church were also greatly reduced as a result of its lack of a house of worship.

34. In order to have sufficient space to worship, host other religious activities and conduct its ministries, Reverend Ware and Church officials began a search for a property for a house of worship commencing in 2008.

35. The need for such a property was based on the size of the congregation and its religious activities.

36. In 2008, the Church also began a fundraising campaign to acquire a property to meet its needs.

37. In August 2012, Reverend Ware identified the subject property located at 4512 Old Court Road, Baltimore, Maryland (the "Property") as a potential site for the Church.

38. Plaintiffs utilized a local realtor to locate and acquire the Property and were advised by that realtor that a church is a permitted use on the Property.

39. On August 31, 2012, Reverend Ware purchased the Property for use as a church.
40. The Property is zoned “D.R.3.5,” the County’s “Density Residential 3.5” zoning district.
41. The D.R.3.5 zoning district permits a place of worship as a use permitted by right.
42. The Property is approximately 1.2 acres in size, and is improved with a structure previously used as a dwelling that is approximately 2,900 square feet in size.
43. Many of the Church’s congregants live near the Property.
44. The Property is also centrally located to the Church’s congregants who do not live in the immediate area.
45. The Property is located on Old Court Road, which is a busy four-lane arterial road that traverses Baltimore County.
46. Old Court Road is heavily used as commuter road to other thoroughfares in Baltimore County not only by local residents, but also by residents of surrounding counties.
47. The Property is 617 feet south of the Baltimore Beltway, Interstate 695.
48. The Property is 931 feet from the Northwest Expressway/I-795.
49. The Property is a quarter-mile from Willow Glen North Park.
50. The Property is located in a mixed-use area with schools, churches, multi-family residential uses, and other assembly and institutional land uses.
51. Within one mile of the Property is a golf course, the Twin Lakes Racquet Club, three apartment complexes, the large Villa Nova park, and at least ten religious uses, two of which are within a quarter-mile of the Property.
52. Within a half-mile of the Property is FutureCare Courtland, a 151-bed facility providing short stay rehabilitation and long term care; Northwest Academy of Health Sciences, a

Metro Maintenance Facility; Winans Elementary School; Milford Mill Academy, the Old Court Metro Station; and an apartment complex, St. Charles at Olde Court.

53. The Property further meets the needs of the Plaintiffs in that there is adequate space for Sunday worship services, Wednesday prayer services, religious instruction for the children, a Pastor's office and adequate parking.

54. Upon acquiring the Property, the Plaintiffs renovated the interior of the existing dwelling on the Property to meet the needs of the Church. These renovations included converting three rooms into a worship area and adding two bathrooms for the congregants separated by a hallway from the worship area.

55. Reverend Ware also replaced the roof of the house on the Property, and replaced a small deck.

56. No exterior changes were made to the building.

57. Reverend Ware created a new parking area to the rear of the house by covering the grass in that area with gravel.

58. Reverend Ware also planted 45 Cypress trees along the eastern and northern property lines to partially screen the new parking area.

59. The Church was dedicated by Reverend Ware and its congregants on October 27, 2012.

60. The Church held its first service on the Property on October 28, 2012.

61. In October of 2012, the Plaintiffs also held two Church events at the Property: a cookout and a party for its congregation.

62. Local residents complained to the County about these events in October 2012.



63. On November 8, 2012, the County contacted Reverend Ware and advised her that the Property could not be used a place of worship until it was brought into compliance with the Baltimore County Zoning Regulations (the “BCZR”).

64. There have been no Church-related activities at the Property since October 2012.

65. The Church has had to conduct worship services in the home of Reverend Ware and other congregants.

66. Reverend Ware’s home is a modest two-bedroom house.

67. There are significantly more young children in the Church now and there is no separate space for the children in her home during Church activities.

68. Reverend Ware’s home cannot accommodate all of the congregants for worship services, prayer services and ministry meetings.

69. Her home cannot accommodate the sick, refugee, homeless and drug-addicted individuals that the Church seeks to minister to due to a lack of space and thus, these ministries have suffered.

70. Larger events such as weddings and community gatherings for congregants must be held in the yard of Reverend Ware’s home or off-site due to their size.

71. The Church cannot hold religious instruction for the children of the Church as there is no space for this activity.

72. There is not sufficient and adequate space in the home for:

- Pastoral counseling to the Church’s congregation on an individual and couple basis;
- Bible study groups;

- Teenage programs for local teenagers to keep them off of the streets and provide them with spiritual guidance in a youth group setting;
- Fostering its mens', womens', praise and worship, teaching welfare and finance ministries; and
- "Altar call" services.

73. All community programs offered by the Church such as after-school tutoring, youth mentorship, and helping the poor have ceased.

74. The Church cannot grow because of its inability to engage in evangelism and inviting new members, based on the lack of space to accommodate people.

75. The Church has lost members and financial contributions due to not having a home.

#### **The Land Use Regulations Applicable to the Property**

76. Baltimore County regulates land use in its jurisdiction in part through the BCZR.

77. The BCZR provides for permitted, special exception, and prohibited land uses within any given zoning district.

78. However, the BCZR also overlays these general use regulations with a myriad of other regulatory zoning hurdles that provide unbridled discretion on the part of County officials and employees to prevent religious land use by applying vague and subjective criteria.

79. The D.R.3.5 Zone, in which the Subject Property is located, provides for a maximum of 3.5 dwellings unit per acre.

80. Churches and other buildings for religious worship are permitted by right within all D.R. zones, including the D.R.3.5 zone.

81. Baltimore County's zoning regulations contain an extremely complicated set of procedures and requirements that a place of worship must navigate in order to engage in religious land use within the County.

82. Baltimore County's byzantine zoning regulations provide objecting residents myriad possibilities to derail religious land use development, even where such use is permitted in the relevant zoning district.

83. Such regulations create unbridled discretion on the part of County decision makers as to whether religious exercise will be permitted or not, and impose many years of review and thousands of dollars of cost to such applicants.

84. The BCZR contains a concept known as a "Residential Transition Area" ("RTA"), which is described as a "supplemental use restriction" in the Zoning Regulations.

85. The Baltimore County RTA regulations related to church uses are currently being challenged in another action in this Court, *Congregation ARIEL Russian Community Synagogue, Inc. v. Baltimore County*, Civil No. 17-00910 (GLR)), as, *inter alia*, being unconstitutionally vague.

86. An RTA is "a one-hundred-foot area, including any public road or public right-of-way, extending from a D.R.-zoned tract boundary into the site to be developed."

87. The BCZR provides that any nonresidential use permitted as of right is a "residential transition use." BCZR § 1B01.1.

88. The drafters of the BCZR recognized that dissimilar uses would be located next to each other within Baltimore County.

89. Under the BCZR, a "residential transition" must include a "residential transition area" ("RTA") of one hundred feet, including any public road or public right-of-way, extending

from a D.R.-zoned tract boundary into the site to be developed if the residential transition is next to a parcel of land zoned D.R.3.

90. The properties adjacent to the subject Property are also zoned D.R.3.5.

91. The RTA regulations limit what can be built within various setbacks and a buffer.

92. There are six exceptions to the RTA regulations.

93. Two of these exceptions to the RTA regulations are found in BCZR § 1B01.1.B.1.g

and include:

- (4) An addition to an existing church or other building for religious worship, including parking areas and driveways, provided all other applicable zoning regulations including setback, parking and screening requirements, are maintained.

and:

- (6) A new church or other building for religious worship, the site plan for which has been approved after a public hearing in accordance with Section 500.7. Any such hearing shall include a finding that the proposed improvements are planned in such a way that compliance, to the extent possible with RTA use requirements, will be maintained and that said plan can otherwise be expected to be compatible with the character and general welfare of the surrounding residential premises.

94. As described below, the Plaintiffs seek approval for a house of religious worship on the subject Property, which is a use permitted by right, and which required filing a Petition for relief from the RTA.

95. The Baltimore County Code permits another governmental entity, the so-called “People’s Counsel,” to engage in yet another additional stage of government review, in this case a County official advocating a position contrary to religious land use to another County body, the Board of Appeals.

96. Such hurdles also permit objecting neighbors the opportunity to prevent religious land use from existing near them, even if permitted by right under the general use regulations, by drawing out administrative proceedings over many years and costing applicants significant resources.

97. As such, is it impossible to know whether, where or when religious land use may be permitted in Baltimore County.

98. Such hurdles create substantial uncertainty, delay and expense for any religious land use applicant.

#### **Plaintiffs’ First Application to the County (“*Ware I*”)**

99. On December 21, 2012, Reverend Ware filed a petition for special hearing and zoning variances with the County Department of Permits, Approvals and Inspection.

100. The Petition sought to change the use of the Property from a single family residence to a church.

101. The Petition sought to allow an RTA buffer of 0 feet instead of the required 50 feet.

102. The Petition sought to allow an RTA set back of 0 feet instead of the required 75 feet from a tract boundary to a parking lot.

103. The Petition sought variances from parking regulations that require every parking space to have direct access to an aisle; the surface of the lot to be “durable and dustless”; and the lot to be striped.

104. In January 2013, the “People’s Counsel” entered his appearance in the case.

105. On February 5, 2013, the County Director of the Department of Planning indicated that it did not oppose the Petition “provided a landscape and signage plan is submitted to the department for review and approval.”

106. On February 27, 2013, a hearing was held before Administrative Law Judge Beverungen (the “ALJ”).

107. Various individuals (the “Protestants”) who lived near the Property participated in the proceedings to oppose the Petition.

108. During the course of the proceedings, the Protestants made the following comments directed at Reverend Ware and the Church:

- a. “[D]ancing and hollering like they back at their home back in Africa somewhere.”
- b. “She can come over here from Africa . . . branch out from another church and put all of this in our neighborhood.”
- c. “They were out there dancing like from Africa. We don’t have that in our block.”

109. On March 7, 2013, the ALJ issued a written decision recommending denial of the Petitions.

110. On March 15, 2013, Ware appealed the ALJ decision to the Board.

111. On June 18, 2013, the Board conducted a *de novo* hearing on the Petitions.

112. In addition to Reverend Ware and two congregants, Ware called one expert as a witness on her behalf.

113. The expert witness, who prepared the site plan for the property, testified, *inter alia*, that:

- A. The parking lot would have 16 spaces.
- B. The proposed church building would have 64 seats.
- C. All or part of six of the parking spaces are within the RTA buffer.
- D. All or part of ten of the parking spaces are within the RTA setback.
- E. The driveway is within the RTA buffer.
- F. There would be no changes to the exterior of the building on the property.

114. There were 21 Protestants represented by counsel at the hearing.

115. Seven Protestants testified in opposition to the petitions.

116. The Protestants called an expert witness who testified that the site plan did not satisfy the RTA requirements.

117. The Protestants' expert further opined that with respect to the variances sought by Ware, the hardship was self imposed.

118. On July 30, 2013, the Board publicly deliberated the Petition.

119. The Board stated in part that: "The Board reviewed that the neighborhood in which the subject property is located has 5 established churches located in the residential area . . . ."

120. The Board issued its decision on October 9, 2013 denying the Petition.

121. The Board found that Ware was engaging in development of the Property such that the RTA restrictions apply.

122. The Board found that the Petition did not qualify for an exception from the RTA restrictions under BCZR § 1B01.1.B.g(6) as a new church.

123. The Board found that there was the plan did not even minimally comply with the RTA requirements.

124. The Board found that its decision rendered the request for variances related to parking moot.

125. Ware appealed the decision to the Circuit Court for Baltimore County, which issued a verbal ruling affirming the Board's decision.

126. Ware filed an appeal with the Court of Special Appeals of Maryland, which issued an Opinion affirming the Circuit Court's decision on July 2, 2015.

127. The Court of Special Appeals determined that neither of the two prongs of the inquiry under § 1B01.1.B.1.g(6) were met, specifically which require that "the proposed improvements are planned in such a way that compliance to the extent possible with RTA use requirements, will be maintained" and that the plan could "otherwise be expected to be compatible with the character and general welfare of the surrounding residential premises."

128. Both of the Court of Special Appeals' holdings related to the failure to meet the RTA setback and buffer requirements.

129. With respect to the first prong, the Court of Special Appeals held: "Ware's site plan did not comply with the RTA use requirements at all because it proposed no buffer and no set back between the parking lot and the eastern boundary of the Property. . . . Doak acknowledged in his testimony that Ware could configure the parking lot to reduce its infringement upon the RTA."



130. With respect to the second prong, the Court of Special Appeals held: “the planned 16-space parking lot immediately adjacent to a residential property, mostly within the RTA buffer and setback areas, is not compatible with the character and general welfare of the neighborhood.”

131. Thus, the Board’s decision was upheld by the Court of Special Appeals because of Ware’s failure to provide any buffer and any setback, and which specifically related to the placement of the proposed parking lot.

### **The Second Petition for Special Hearing (“*Ware II*”)**

132. After being denied in *Ware I*, and during the pendency of the appeal, Reverend Ware filed a second Petition for a Special Hearing with the County on September 11, 2013 (“*Ware II*”).

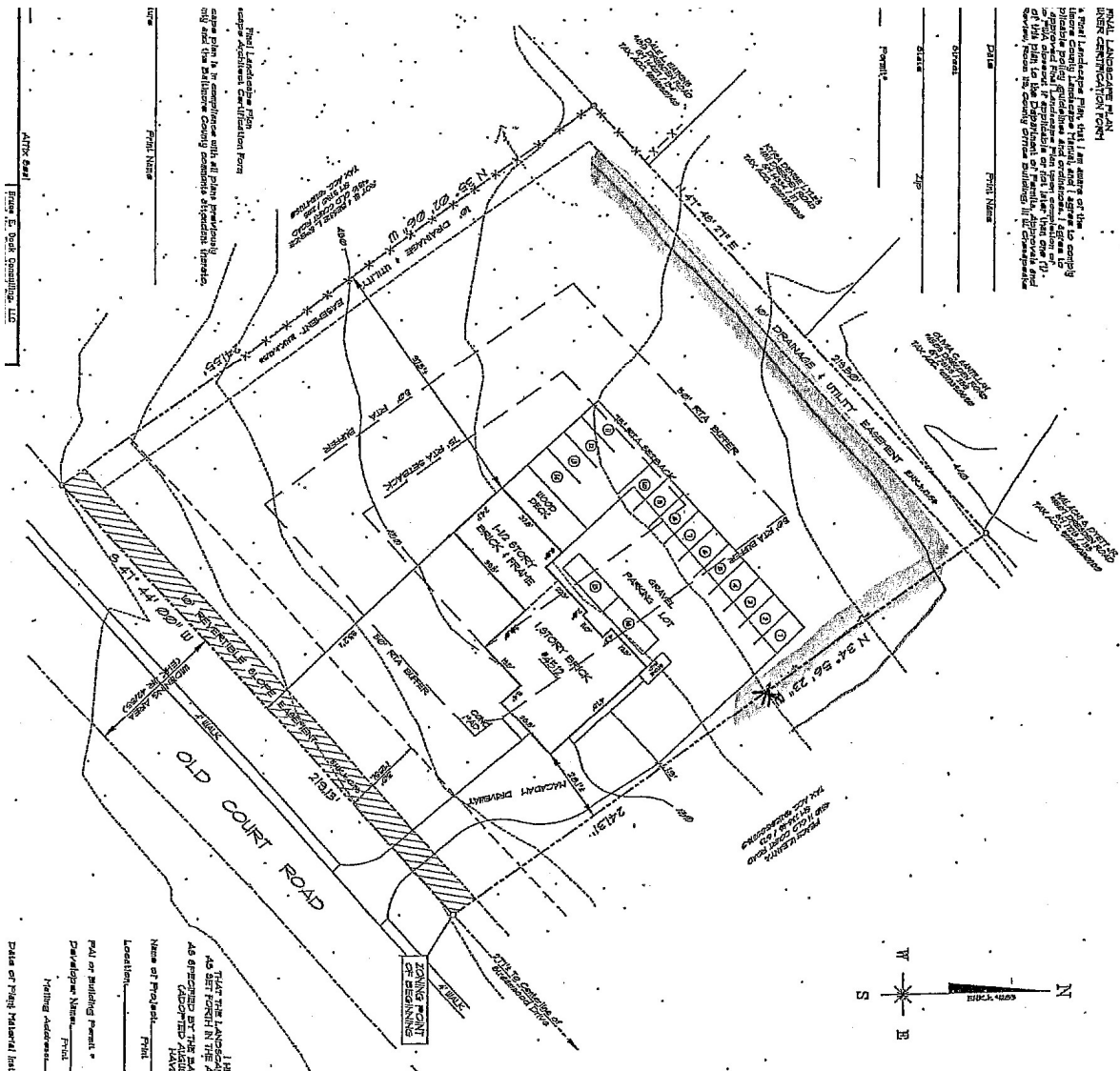
133. The original Petition in *Ware II* sought relief from the RTA regulations, as in *Ware I*, but with increased set backs.

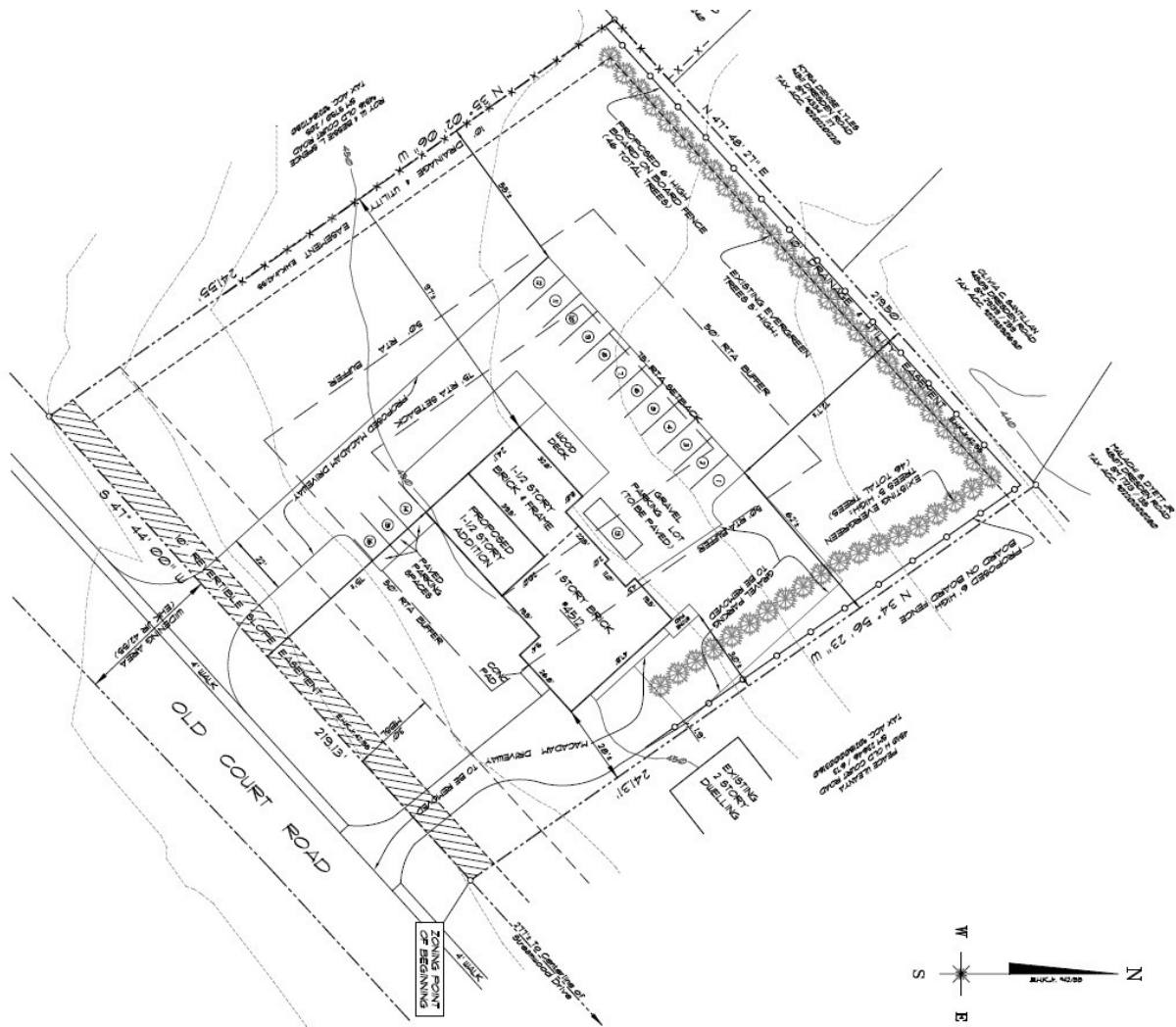
134. On October 31, 2013, Ware amended her Petition and site plan in *Ware II*. The Petition was amended prior to any consideration by the ALJ and before any hearing in *Ware II*.

135. The amended Petition either met or came close to meeting the RTA set back and buffer requirements and requested no variances related to parking.

136. The amended Petition and site plan represented a substantial and highly relevant change to that which was originally requested in *Ware I*, as indicated in the following site plans:

**Ware I Site Plan:**



**Ware II Amended Site Plan:**

137. The *Ware II* application relocated the proposed driveway and parking lot from an area immediately adjacent to a neighboring property to the center of the subject Property, within the RTA “buffer” area and mostly within the set back area.

138. The site plan in *Ware I* called for a 0-foot set back, while the amended site plan in *Ware II* called for set backs measuring 62 feet to the property to the east, 72.7 feet to the property to the north, and 55 feet to the property to the west.

139. The site plan in *Ware I* called for a 0-foot buffer, while the amended site plan in *Ware II* called for a 50-foot buffer, meeting the RTA requirements.

140. The site plan in *Ware I* included three separate variance requests for relief related to parking pursuant to BCZR §§ 409.4, 409.8(A)(2) and 4098(A)(6), while the site plan in *Ware II* included no variance requests for relief related to parking and met all parking requirements.

141. Additionally, the site plan in *Ware I* called for no alterations to the existing building, while the site plan in *Ware II* called for a slightly less than 800-square foot addition to the existing dwelling.

142. In complete contradistinction to the Petition in *Ware I*, the site plan complied either completely or much more substantially (and “to the extent possible”) with RTA set back and buffer requirements and other zoning requirements of the BCZR.

143. On October 30, 2013, the People’s Counsel corresponded with the ALJ, incorrectly asserting that the Petition sought essentially the same relief as was sought in *Ware I*, and sought dismissal of the Petition on the basis of *res judicata*.

144. Upon information and belief, the People’s Counsel, in seeking dismissal of the Petition, was responsive to local residents’ opposition to the Church’s proposed use.

145. The two site plans in *Ware I* and *Ware II* were substantially different, and specifically were different on grounds relevant to the denial of *Ware I*.

146. Nevertheless, on November 4, 2013, the ALJ agreed and dismissed the Petition on the basis of “*res judicata*.”

147. In his Opinion, the ALJ stated: “Given that this determination presents a question of law, I believe it is appropriate to dismiss the case prior to an evidentiary hearing.”

148. The Petition was dismissed without any evidentiary hearing and without any briefing or submission by Ware.

149. Ware filed a Motion for Reconsideration on December 3, 2013.

150. On December 19, 2013, the ALJ denied the Motion for Reconsideration in an Order.

151. Ware filed an appeal to the Board on January 9, 2014.

152. On February 4, 2014, People's Counsel filed a Motion to Dismiss Ware's Petition with the Board.

153. Proceedings before the Board were stayed pending the outcome of the decision from the Court of Special Appeals in *Ware I*.

154. On November 30, 2016, counsel for Protestants adopted People's Counsel's Motion to Dismiss.

155. On March 30, 2017, People's Counsel acknowledged his error and withdrew his motion to dismiss, stating:

Upon review of the record, in view of differences between the present petition and previous petition, our office chooses hereby to withdraw its motion to dismiss relating to the *res judicata* doctrine.

156. Nevertheless, the Board continued to review the motion, as it was adopted by the Protestants.

157. On May 11, 2017, the Board held a hearing on the Motion to Dismiss.

158. On June 1, 2017, the Board publicly deliberated the neighbors' Motion to Dismiss.

159. On September 13, 2017, the Board issued its decision granting the Motion to Dismiss.

160. The Board held that the Petition filed by Ware was barred by *res judicata* and collateral estoppel.

161. In so holding, the Board stated: "The facts in Ware I and Ware II concern the same Petitioner, regarding the same property, and same proposed conversion of a single-family into a

church. The issues related to the application of the RTA regulations and the generation of the RTA and required buffers and setbacks, as well as potential exclusions are present in both.”

162. The Board’s holding was clearly erroneous as the issues to be reviewed in each application were substantially different.

163. The Board was under no legal obligation to invoke *res judicata* and/or collateral estoppel in considering the applications before it.

164. However, upon information and belief, it has become a common custom and practice not only for People’s Counsel to move to dismiss County zoning applications on this basis, but for the Board to grant these Motions and avoid adjudicating applications on their merits.

165. Upon information and belief, the County has permitted other applicants to file multiple applications for the same use on the same property without barring subsequent applications based on *res judicata* and/or collateral estoppel.

### **Community Opposition**

166. Plaintiffs have faced tremendous opposition based on the nature of their ministry and the ethnic background of Reverend Ware and the congregation.

167. Such opposition was based on their status as African immigrants.

168. The County inspector who notified the Church that it could not operate as a Church without complying with the BCZR in November 2012 told Reverend Ware: “You Africans don’t even know what you’re doing.”

169. Plaintiffs have also experienced significant and hostile discrimination from the neighbors of the property.

170. Neighbors have called Reverend Ware and her congregation members racial slurs related to their African heritage.

171. One neighbor stated to Reverend Ware:

- a. “You monkeys need to go back to Africa and I will do whatever it takes to make sure you don’t stay here.”
- b. “The monkeys have come out.”
- c. “The monkeys are here.”
- d. “The dogs are here.”
- e. “What are you Africans doing here?”

172. Another neighbor stated to Reverend Ware: “I don’t like Africans because they circumcise their girls.”

173. Another neighbor stated to Reverend Ware: “We can smell your stink from across the street.”

174. All three of those neighbors are members of the Protestant group opposing Ware’s Petitions.

175. Reverend Ware filed a Peace Order with the County against one of these neighbors on April 10, 2013 in the District Court of Maryland for Baltimore County based upon harassment alleging that that she:

- a. Was saying the Africans should not be in the neighborhood;
- b. Was saying that she could smell “us” from her house; and
- c. While planting trees on the property, the neighbor started jumping on her fence shaking it vigorously with rage.

176. On May 4, 2013, Reverend Ware filed a Complaint with the County Citizen Complaint Bureau against that neighbor.

177. Due to the neighborhood harassment, Reverend Ware and another congregant opened a discrimination complaint with the Baltimore County Human Relations Commission.

178. The Property has been vandalized on at least three occasions.

179. On April 10, 2013, someone ripped all of the flowers from the flowerbed at the Property.

180. On June 17, 2013, someone smeared blood on the doors of the building on the Property and broke the flower pots on the deck.

181. On July 10, 2013, someone left soiled adult diapers in the driveway of the property.

182. In September 2016, someone broke into the Property and stole personal property. Following a police report and investigation, that personal property was recovered at a local pawn shop.

183. The Board erred as a matter of law in concluding that *res judicata* and collateral estoppel prohibited it from considering the *Ware II* Petition.

184. The Board had the authority to hear *Ware II*.

185. The Board's decision forecloses any ability of the Church to use the Property as a place of worship, regardless of the scale, conditions or intensity of such use.

186. By completely and repeatedly prohibiting the Plaintiffs from using the Property for a house of worship, the Board has substantially burdened the Plaintiffs' religious exercise.

187. There is no compelling or legitimate governmental interest that requires the dismissal of Plaintiffs' Petition.



188. Refusing to consider Plaintiffs' Petition is not the least restrictive means of achieving any governmental interest.

189. The Board's decision was a final decision and was not reviewable by any other administrative body.

190. Plaintiffs had a reasonable expectation that their use would be permitted on the Property.

191. The Board's denial of the Plaintiffs' application severely impedes and prevents Plaintiffs' exercise of its religion.

192. The construction activity related to the Plaintiffs' proposed house of worship would affect interstate commerce. The construction's effect on interstate commerce would result from, amongst other things, the Plaintiffs' fundraising activities related to the construction; the transfer of funds to those it engages to construct the addition; the engagement of construction companies to construct the addition; the employment of and payments to construction workers either by the Plaintiffs or by companies engaged by it; the purchase of necessary materials to construct the addition; the engagement of a landscaping company; the use of interstate highways for the transportation of persons and materials used to construct the addition; the use of interstate communication related to the construction of the addition; and other activities related to the construction of the addition.

193. The Church'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 Maryland; the use of means of interstate communication to facilitate the Plaintiffs' ongoing operations; the use of interstate travel related to the Plaintiffs'

ongoing operations; and the purchase of goods and services related to the Plaintiffs' ongoing operations and maintenance.

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

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

196. Application of the BCZR regulations to Plaintiffs' proposed religious land use creates extreme expense, delay and uncertainty.

197. The Plaintiffs have also suffered significant financial damages as a result of the Defendants' laws and their application to the Church. These include the loss of donations.

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

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

## **COUNT I**

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

200. Paragraphs 1 through 199 are incorporated by reference as if set forth fully herein.

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

**COUNT II**

**Religious Land Use and Institutionalized Persons Act of 2000**

**“Nondiscrimination”**

**42 U.S.C. § 2000cc(b)(2)**

202. Paragraphs 1 through 201 are incorporated by reference as if set forth fully herein.

203. Defendants have deprived and continue to deprive the Plaintiffs of their right to the free exercise of religion, as secured by RLUIPA, by implementing land use regulations in a manner that discriminates against them on the basis of religion and religious denomination.

**COUNT IV**

**United States Constitution, First Amendment**

**42 U.S.C. § 1983**

**Free Exercise of Religion**

204. Paragraphs 1 through 203 are incorporated by reference as if set forth fully herein.

205. Defendants have deprived and continue to deprive the Plaintiffs of their 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 their religious exercise without using the least restrictive means of achieving a compelling governmental interest, and by discriminating against them 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, Fourteenth Amendment**

**42 U.S.C. § 1983**

**Equal Protection**

206. Paragraphs 1 through 205 are incorporated by reference as if set forth fully herein.

207. Defendants have deprived and continue to deprive the Plaintiffs of their right to equal protection of the laws, as secured by the Fourteenth Amendment to the United States Constitution, by discriminating against them in the implementation of their land use regulations.

## **COUNT VII**

### **Maryland Constitution Declaration of Rights, Article 36 Free Exercise of Religion**

208. Paragraphs 1 through 207 are incorporated by reference as if set forth fully herein.

209. The Defendants' actions toward the Plaintiffs amount to governmental discrimination upon the basis of religious conviction.

210. Defendants have interfered with the Plaintiffs' duty to worship God in such manner as they think most acceptable, denied the Plaintiffs the protection of the religious liberty to which it is entitled, and have molested the Plaintiffs in their person and their estate, on account of their religious persuasion, profession, and religious practice, without justification.

## **COUNT IX**

### **Judicial Review of Administrative Agency Decision**

211. Paragraphs 1 through 210 are incorporated by reference as if set forth fully herein.

212. The Church requests judicial review of the Opinion and Order of the Board of Appeals for Baltimore County, dated September 13, 2017, In the matter of Reverend Lucy Ware on the property located at 4512 Old Court Road, Baltimore, Maryland 21208, Case No. 14-064-SPH.

213. Reverend Ware was a party to the proceedings before the Board of Appeals, which culminated in the Board's granting of a Motion to Dismiss Ware's Petition, as amended, in *Ware*

*II.* Reverend Ware filed a Petition and an amended Petition in *Ware II*, which sought approval to use the subject Property as a church and also requesting a finding that the proposed church was exempt from the RTA requirements pursuant to BCZR 1B01.1.B.1.g(6).

214. The Board committed an error of law in applying the principles of *res judicata* and collateral estoppel and thereby dismissing the amended petition in *Ware II*.

215. The Board's Order granting the Motion to Dismiss was issued after a *de novo* hearing. The Board's Order is an error of law and therefore, on appeal, it is owed no deference by a reviewing Court of law.

216. The flaws in the Board's Opinion, as described herein above, and its incorrect application of the doctrines of *res judicata* and collateral estoppel, are arbitrary and capricious and constitutes legal error as a matter of law.

### **PRAYER FOR RELIEF**

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

1. A declaration that the Board's decision is void, invalid and unconstitutional 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 Maryland Constitution;
3. An order reversing the decision of the Baltimore County Board of Appeals and remanding the Plaintiffs' application for consideration and a hearing before the Board;

4. An order directing the Baltimore County Board of Appeals to reverse its denial of the Plaintiffs' application and to schedule a hearing on Plaintiffs' application;
5. Preliminary and permanent orders enjoining the Defendants, their officers, employees, agents, successors and all others acting in concert with them from applying their laws 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 Maryland Constitution or undertaking any and all action in furtherance of these acts;
6. An award of compensatory damages against Defendants in favor of the Plaintiffs as the Court deems just for the loss of its rights under the First and Fourteenth Amendments to the United States Constitution, and the Religious Land Use and Institutionalized Persons Act, and the Maryland Constitution incurred by the Plaintiffs and caused by the Defendants' laws and actions;
7. An award to the Plaintiffs of full costs and attorneys' fees arising out of Defendants' actions and land use decisions and out of this litigation; and
8. Such other and further relief as this Court may deem just and appropriate.

**DEMAND FOR JURY**

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

Respectfully submitted by the Plaintiffs this 13th day of October 2017.

**STORZER & ASSOCIATES, P.C.**

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*Attorneys for Plaintiffs*

JS 44 (Rev. 07/16)

**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**

JESUS CHRIST IS THE ANSWER MINISTRIES, INC., a Maryland tax exempt nonstock corporation, and REVEREND LUCY WARE

(b) County of Residence of First Listed Plaintiff BALTIMORE

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Roman Storz and Sieglind K. Rath  
Storz & Associates, P.C. 202-857-9766  
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Washington, DC 20036

Lawrence E. Schmidt  
Smith, Gildea & Schmidt, LLC 410-821-7000  
600 Washington Avenue, Suite 200  
Towson, MD 21204

**DEFENDANTS**

BALTIMORE COUNTY, MARYLAND and BOARD OF APPEALS OF BALTIMORE COUNTY, MARYLAND

County of Residence of First Listed Defendant BALTIMORE

(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

**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	<b>PERSONAL INJURY</b> <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	<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 <b>PERSONAL PROPERTY</b> <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 <b>LABOR</b> <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 <b>IMMIGRATION</b> <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 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <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)) <b>FEDERAL TAX SUITS</b> <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 - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

**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. 2000cc et seq.

Brief description of cause:

Unconstitutional discrimination against religious organization and indiv. in violation of First Amendment & 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

10-13-17

SIGNATURE OF ATTORNEY OF RECORD

*Stephane Hall*

**FOR OFFICE USE ONLY**

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE