

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

COUNTY OF CHESTERFIELD, VIRGINIA

Plaintiff,

v.

LOVE OF LIFE FELLOWSHIP, INC.
PASTOR CHRISTOPHER LANE,
STACY LANE,
LARRY PHILLIPS,
WHITMILL INVESTMENT COPROPATION,
DAVID LEE,

Defendants

CAUSE NUMBER: 3:18cv354

NOTICE OF REMOVAL

The Defendant files this Notice of Removal and alleges:

JURISDICTION AND VENUE

1. This is a civil action brought by the Defendant to enforce the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA"), 42 U.S.C. 2000cc - 2000cc-5. Numerous additional tort claims have arisen from Plaintiff's violation of the RLUIPA.
2. This action arises out of a case styled: COUNTY OF CHESTERFIELD, VIRGINIA, Plaintiff, versus CHRISTOPHER LANE, STACY LANE, WHITMILL INVESTMENT COPROPATION, and DAVID LEE, Defendants. Case No. CL18001084-00.
3. LOVE OF LIFE FELLOWSHIP, INC. is an indispensable party that was not properly named in the aforementioned case and is accordingly joining the Defendants.
4. Removal is proper under 28 U.S.C. 1446 (b)(3).
5. This Court has jurisdiction over this action pursuant to 28 U.S.C. 1331 and 42 U.S.C. 2000cc-2(f).
6. Venue is proper under 28 U.S.C. 1391(b) because the actions giving rise to this action occurred in the Eastern District of Virginia.

PARTIES

7. Plaintiff County of Chesterfield ("County" or "Plaintiff") is a county located in the Commonwealth of Virginia. The County has the authority to regulate and restrict the use of land and structures within its borders, including granting and denying requests for .

rezoning. It covers 437 square miles and has a population of approximately 330,000 persons. It has several hundred houses of worship.

8. The County is governed by a Board of Supervisors composed of five members. The County's Department of Planning oversees the County's building and development needs. The County's Planning Commission is composed of five members who are appointed from each magisterial district of the county. The use of the word Plaintiff, or Plaintiffs hereinafter includes the county, its elected officials, employees and contractors.
9. For purposes of RLUIPA, the County is a "government." 42 U.S.C. § 2000cc-5(4)(A)(i), (ii).
10. Defendant LOVE OF LIFE FELLOWSHIP is a 501 (c)(3) Religious Organization properly formed in 2017 for the purpose of providing Christian Religious Worship, Church services, and associated activities at the former Atlantic Bible College property located at 500 BAPTIST DRIVE in Chesterfield County, Virginia..
11. The worship community of LOVE OF LIFE FELLOWSHIP uses the leased Campus and Church Compound of the former Atlantic Bible College to exercise its religion. Defendant Pastor Christopher Lane leads the congregation. Defendant Stacy Lane is the wife of Pastor Christopher Lane.
12. Defendant Whitmill Investment Company is the current owner of record of the property and Defendant Mr. David Lee is the owner of Whitmill Investment Company. The

intention of Whitmill Investment Company is to transfer the property to LOVE OF LIFE FELLOWSHIP, but that has been delayed due to the ongoing interference by the Defendants. Hereinafter, the Defendants as a group will be referred to as "LOVE OF LIFE FELLOWSHIP".

FACTS AND ALLEGATIONS

13. Chesterfield County is misusing its police powers and its zoning ordinances to shut down the LOVE OF LIFE FELLOWSHIP, stop their right to gather and worship, and diminish the value of the Defendant's property with the predatory abuse of their zoning powers. These actions by the Plaintiff are a direct violation of the Religious Land Use and Institutionalized Persons Act (RLUIPA) as well as the US and Virginia Constitutions.
14. In 2010, the Defendant Whitmill Investments purchased 38 acres containing (the "property" or "land") located at 500 Baptist Drive, Chester, Va. 23836. The property was built as a church compound with six main buildings, three manufactured homes, a large shed and other small structures. The main buildings consist of the Sanctuary, which Defendants refer to as the Chapel, two Dormitory Buildings, one Apartment Building, one Administrative Building, one Classroom Building, and one Cafeteria Building with a large scale Commercial Kitchen.
15. Prior to the current owner's purchase in 2010, the land was zoned agricultural, and under said zoning, a Church is allowed by right. The property is still zoned agricultural, and under the county's zoning code, a house of worship is a permitted use in agriculturally zoned land. When the Atlantic Bible College opened over 20 years ago, a special use

permit was obtained to also allow the property to be used as a school or college in addition to its permitted use as a Church.

16. Neither the Atlantic Bible College, the previous owners nor the current owners ever relinquished any underlying vested rights allowed by the Agricultural zoning, and since its initial design, permitting and construction, the use has not changed. The property is a Church compound. It was permitted and built as such. It was in conformity with zoning when built, and is in conformity with zoning now, yet the county has continued to harass the owners, tenants, and prospective tenants and complain that their property at 500 Baptist Drive is not in compliance with zoning. This has cost the Defendants tremendously, as the county's actions have slandered and defamed the property, slandered and defamed the owners, slandered and defamed the tenants and prospective tenants, and as a direct result have caused the loss of contracts, business expectancy, and associated income from the property. These actions have been undertaken by the county officials in their official capacity intentionally and with malice.

15. The 38 acres, more or less, in question in this action is at 500 BAPTIST DRIVE in Chesterfield County and was constructed as a home for the Atlantic Bible College which is no longer in business. It was properly permitted, properly constructed and properly inspected and is in compliance with Chesterfield County Code, then and now. Further, with the exception of a period of vacancy after the Atlantic Bible College departed, there have been Church meetings and Church activities that have taken place there as allowed by the underlying agricultural zoning since the day this religious facility first opened its doors over two decades ago.

16. Defendants use of the property has been in compliance with the underlying zoning, and as such the Defendants have used the Sanctuary- Chapel and the other buildings in a manner consistent with any other Church in Chesterfield County, yet the Chesterfield County Zoning Officials have held the Defendants and their associated LOVE OF LIFE FELLOWSHIP to a standard and scrutiny which is beyond reason and without basis. In doing so, the Plaintiff has prejudiced others against the Defendants including but not limited to potential lessees, sub-lessees, and business associates. Accordingly, the Defendants have numerous colorable tort claims against the Plaintiff, including but not limited to common law fraud, tortious interference with contracts and tortious interference with business expectancy.
17. The Plaintiff's behavior is egregious. No party involved ever agreed that there would not, or could not, be a Chapel, Sanctuary, Church or Religious Service, or the associated activities, including but not limited to Vacation Bible School, or Church sanctioned meetings of Veterans and other groups at 500 BAPTIST DRIVE. These facilities were designed and built for this very use over 20 years ago and have been used as such ever since.
18. Upon information and belief, the Plaintiff never had a problem with the property until after the Defendant, Whitmill Investment Corporation, purchased it in 2010. It was subsequently leased to SOUTHSIDE CHURCH OF THE NAZARENE and was their Enon Campus for six years until they moved their Enon branch of the Church to 13930

Happy Hill Road in Chester this past February. Plaintiff never had a problem with the Church gatherings of the SOUTHSIDE CHURCH OF THE NAZERINE, as their leader was a Pastor Wynn, who also was the Pastor for the Chesterfield County Police Department at the same time.

19. Plaintiff's actions to interfere with the allowed use of the property arose out of personal disdain for the current pastor and his wife, Defendants Christopher and Stacy Lane. Upon information and belief, this is because they personally work to politically empower the poor and disenfranchised in the area, and this is apparently a source of irritation and discomfort to several elected county officials, in particular, the local Chesterfield County Supervisor for the area in which the Church is located, Dorothy Jeackle. As a result of this personal community involvement, one of Jeackle's pet projects, an industrial "megasite" was recently overturned. It is the Defendant's position that the associated personal animosity has led to the use of county police powers to harass and punish the Defendant's for exercising their God given and Constitutional Rights.

20. Defendants have had numerous incidences where they have entered into negotiations with third parties only to be sabotaged by the misinformation campaign waged by the Plaintiff. These incidents include but are not limited to:
 - A lease for two of the buildings for \$8,000 per month.
 - A lease for the Sanctuary, and joint use of the Commercial Kitchen and Dining Hall for \$6,000 per month.

Negotiations to locate a Family Life Center for an amount in excess of \$5,000 monthly.

There have been numerous other Churches and Church Groups that have tried to use the property.

Every one of these groups were serious and had the ability to do business with the Defendants. Every one of them was scared off by the purposeful fraudulent and misleading statements and acts of the Plaintiff. But for the Plaintiff's actions, Defendants would be collecting the income from these prospective partners.

21. Upon information and belief, Mrs. Jeackle and others are using their influence and position to instruct the Plaintiff to use their zoning powers to close down the Church and its associated activities at 500 Baptist Drive, of which Defendant Christopher Lane happens to be the Pastor.

22. This organized activity on the part of the Plaintiff is in direct violation of the law, in particular, the Religious Land Use and Institutionalized Persons Act, hereinafter RLUIPA section 2(a) which bars zoning restrictions that impose a substantial burden on the religious exercise of a person or institution, unless the government can show that it has a compelling interest in imposing the restriction and that the restriction is the least restrictive way for the government to further that interest.

23. The RLUIPA also forbids laws that unreasonably limit houses of worship, and it states that “no government shall impose or implement a land use regulation that unreasonably limits religious assemblies, institutions, or structures within a jurisdiction.”
24. For purposes of RLUIPA, the worship community of LOVE OF LIFE FELLOWSHIP use of this property constitutes "religious exercise." 42 U.S.C. 2000cc-5(7)(A)-(B).
25. The First Amendment of the United States Constitution also clearly states that Congress shall make no law respecting an establishment of religion, or the free exercise thereof.
26. Chesterfield County Zoning Officials have told pastors and others interested in using the property at 500 BAPTIST DRIVE that this property may not be used a Church. Last week, one Chesterfield County official even went so far as to say that “any property in the county could be used for a Church, except 500 Baptist Drive”. These ongoing and intentional derogatory and discriminatory statements, and the fraudulent misrepresentations intentionally made to those considering leasing or doing business with LOVE OF LIFE FELLOWSHIP is the publication of slander, as is the treatment of any prospective applicant less favorably than similar applications by other houses of worship. This continued and intentional behavior by the Plaintiff constitutes an abuse of process and is damaging to the Defendant’s property and business.
27. The County is motivated to retroactively deny LOVE OF LIFE FELLOWSHIP use of the property allowed by right to effectuate the desires expressed by a few County residents

and County officials who are hostile to the LOVE OF LIFE FELLOWSHIP and its members on the basis of religion or religious denomination.

28. Upon information and belief, prior to this case, Chesterfield County has never before attempted to retroactively change a vested property right in order to shut down a Christian Church.
29. For purposes of RLUIPA, the County's attempt to retroactively rezone a Church property in order to deny the LOVE OF LIFE FELLOWSHIP the rightful use of their facilities constitutes the "application" of a "land use regulation" that "limits or restricts a claimant's use or development of land (including a structure affixed to land)." 42 U.S.C. 2000cc-5(5).

COUNT 1
DISCRIMINATION

30. The allegations above are hereby incorporated by reference.
31. The County has imposed and/or implemented its land use regulation to discriminate against the LOVE OF LIFE FELLOWSHIP by treating the Church differently than other places of worship, in violation of RLUIPA, 42 U.S.C. § 2000c

COUNT 2
SUBSTANTIAL BURDEN

32. The allegations above are hereby incorporated by reference. .

33. Plaintiff's treatment of the LOVE OF LIFE FELLOWSHIP by misusing its zoning process constitutes the imposition or implementation of a land use regulation that imposes a substantial burden on the church's religious exercise, which burden is not in furtherance of a compelling governmental interest and/or is not the least restrictive means of furthering such interest, in violation of RLUIPA, 42 U.S.C. 2000cc(a)..

34. For purposes of RLUIPA, the County has singled out the LOVE OF LIFE FELLOWSHIP and the property for individualized discriminatory treatment and is in violation of 42 U.S.C. §2000cc(a)(2)(C).

35. For purposes of RLUIPA, the LOVE OF LIFE FELLOWSHIP ongoing use of the property, sanctuary and worship facilities, including the parking lots, ball fields, and other improvements involves and affects interstate commerce. 42 U.S.C. 2000cc(a)(2)(B).

36. For purposes of RLUIPA, Chesterfield County receives significant amounts of money from various sources of Federal Funding including but not limited to Community Development Block Grants, Fair Housing Grants, Federal Highway Administration Funds and other sources.

COUNT 3

DEFAMATION

Common Law Defamation

37. Defendants incorporate and rely upon the allegations contained in paragraphs 1-36 of this Complaint as if fully restated herein.
38. The Plaintiff's employees and agents, while acting in the course and scope of their employment, made false statements of fact alleging that the Defendant's property was not fit for use as a church, and that a church was not allowed at the property, when in fact the opposite was true.
39. The Plaintiff's employees while acting in the course and scope of their employment, made false statements of fact alleging Defendants engaged in unethical and un-American conduct, and made other defamatory statements reflecting negatively on Defendants professionalism and work as a Pastor, and while acting in the course and scope of their employment, intentionally and/or recklessly published false factual statements.
40. Chesterfield County is responsible under the doctrine of respondeat superior and ratified the defamatory statements of individual County Employees, Officers and Officials.
41. Defendants demonstrated the falsity of the accusations to the County Officials, but Plaintiff refused to acknowledge the facts and continued to repeat and adopt the defamatory accusations alleged hereinabove. The Plaintiff refused to follow proper procedure and protocol dictated by federal law and continued to disparage the Defendant's activities and facility to their detriment.

42. The Plaintiff and the Plaintiff's employees, while acting in the course and scope of their Chesterfield County employment, made such factual misrepresentations to persons other than the Defendants.
43. The Plaintiffs made such factual misrepresentations with knowledge that they were false or with reckless disregard of whether they were false or true.
44. The misrepresentations by the Plaintiffs were defamatory per se and/or were of such a nature so as to make substantial danger to the Defendants reputation apparent.
45. As a direct and proximate result of the Plaintiffs' misrepresentations, Defendants have suffered injuries and damages, including but not limited to harm to their reputations and standing in the community, personal humiliation, mental anguish and suffering, loss of income, and out-of-pocket expenses and other pecuniary losses.

COUNT 4

TAKING OF PROPERTY WITHOUT JUST COMPENSATION

46. Defendants repeat and re-allege each allegation set forth previously.
47. Plaintiff's actions have resulted in a de-facto and regulatory taking of the property, or a significant portion of the value thereof.
48. Plaintiffs did not fairly and justly compensate Defendants for the taking.

49. Plaintiffs have no public use for the property and therefore the taking is in violation of the Fifth Amendment of the United States Constitution.
50. Plaintiff's taking was without due process of law and is in violation of the Fourteenth Amendment of the United States Constitution.
51. Defendants have suffered significant impairment of the value and salability of their property and project and have suffered huge financial damages as a direct result of this taking.

COUNT 5

VIOLATION OF EQUAL PROTECTION LAWS

52. Defendants repeat and re-allege each allegation set forth previously.
53. Defendants were denied equal protection under the law.
54. Plaintiff's actions were designed in a manner that intentionally held the property at 500 Baptist Drive to a set of regulations and laws that were not enforced elsewhere, but were conjured up to interfere with the Defendant's personally, and with the growth of their ministry.

55. Plaintiffs have not enforced these retroactive regulations elsewhere, yet the Plaintiffs have held LOVE OF LIFE FELLOWSHIP and its associates to a standard and scrutiny that is beyond reason and without basis, which would lead a reasonable and honest person to conclude that such extreme and outrageous governmental behavior was necessary.
56. Plaintiffs treated LOVE OF LIFE FELLOWSHIP and their associates differently than any other person or project in Chesterfield County during the relevant period.
57. Defendants have been discriminated against in direct violation of the Equal Protection Clause of the Fourteenth Amendment.
58. Defendants have suffered tremendous damages as a result of this intentional and discriminatory treatment.

COUNT 6

TORTIOUS INTERFERENCE WITH A BUSINESS RELATIONSHIP

59. Defendants repeat and re-allege each allegation set forth.
60. Plaintiffs had knowledge of the existence of this valid relationship between Defendants and prospective business associates previously mentioned in this Complaint.

61. Plaintiffs have Tortiously Interfered with Contractual Relationships and Business Expectancy regarding the relationship between the individual Defendants, as well as with other prospective tenants and clients, and others.
62. Plaintiffs intentionally interfered with those relationships without justification, attempting to breach it, but in reality making performance more difficult thereby running up significant carrying costs, increasing general expenses and delaying progress.
63. Defendants suffered significant financial damages as a direct result of Defendant's intentional and wrongful interference with these relationships.

COUNT 7

FRAUD

64. Defendants repeat and re-allege each allegation set forth previously in this Complaint.
65. Plaintiff has knowingly committed Fraud by engaging in the following acts:
 - a. Affirmatively failing to disclose the truthful fact that the Defendant's property was in fact properly zoned for a Church as well as Church related activities.
 - b. Privately meeting and communicating with third parties and using their cloak of governmental authority to misdirect prospective partners and investors thus creating additional work, costly delays, and financial hardship on the Defendants in a knowing and purposeful attempt to sabotage, delay and raise the costs of the development of the property.

c. Misleading and misinforming Defendants and prospective clients about necessary and proper truths, meetings and processes required in order to occupy or otherwise develop this property. Hiding the ball, so to speak.

66. Plaintiffs owed Defendants a duty based on their relationship.
67. Plaintiffs violated that duty by lying to and misleading Defendants and prospective partners,
68. Defendants, as a direct result needlessly incurred tremendous costs, delays, and damage to business relationships due to Plaintiff's failure to disclose the truth about the actual zoning and allowed by right uses of the property.
69. Defendants relied on the Plaintiff's representations of knowledge, proper authority, and their duty of good faith and fair dealing. Plaintiffs breached that duty and Defendants suffered tremendous financial damage as a direct result thereof.
70. Defendants were injured as a result of acting based on the Plaintiff's lies and false representations.

WHEREFORE, the Defendants pray that this Court enter an order that:

- a. Declares that Plaintiff's policies and practices, as alleged herein, violate RLUIPA,
- b. Enjoins Plaintiff, its officers, employees, agents, successors and all other persons in concert or participation with it, from:
 1. Discriminating against the LOVE OF LIFE FELLOWSHIP, its pastor, members and any other Christian religious entities and institutions and their members on the basis of religion or religious denomination; and
 2. Placing a substantial burden on the religious exercise of the LOVE OF LIFE FELLOWSHIP, and its members and other Christian religious entities and institutions and their members that is not narrowly tailored to serve a compelling governmental interest; and
- c. Requires Plaintiff, its officers, employees, agents, successors and all other persons in concert or participation with it, to:
 1. Take such actions as may be necessary to restore, as nearly as practicable, the LOVE OF LIFE FELLOWSHIP, and its members to the position they would have been in but for the unlawful conduct of the Plaintiff; and
 2. Take such actions as may be necessary to prevent the recurrence of such discriminatory or otherwise unlawful conduct in the future, including but not limited to, providing RLUIPA training to County personnel, establishing procedures to address complaints of RLUIPA violations; and maintaining records and submitting reports relating to RLUIPA compliance.

- d. Enjoin the Chesterfield County Board of Supervisors and the Chesterfield Planning Commission from interfering with the use of the 38 acres in derogation of Virginia Code 15.2-2285, et seq., and from interfering with the use and operation of the property at issue for the operation of a school, college, Church, house of worship or any associated and related business or religious activities.
- e. Award Defendants actual damages for Count 3 (Defamation) in the amount of Seven Hundred Fifty Thousand Dollars (\$750,000.00), for compensatory reputational injuries, including impairment of reputation and standing in the community, personal humiliation, and mental anguish and suffering;
- f. In the alternative, award Defendants presumed damages for Count 3 (Defamation) for per se defamation in the amount of Seven Hundred Fifty Thousand Dollars (\$750,000.00);
- g. award Defendants compensatory damages in the amount of Seven Hundred Fifty Thousand Dollars (\$750,000.00), per Count for each of the Counts;
- h. award Defendants punitive damages in the amount of Five Hundred Fifty Thousand Dollars (\$500,000.00) for each of the Counts
- i. award Defendants pre- and post-judgment interest from the date of each Plaintiff's acts and/or omissions complained of herein;
- j. award Defendants incidental and consequential damages including out-of-pocket expenses, attorney's fees and other pecuniary losses;
- k. award Defendants all costs incurred herein; and

The Defendants further prays for such additional relief as the interests of justice may require.

A JURY TRIAL IS DEMANDED

_____/s/_____

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I hereby certify that on the 23rd day of May, 2018, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

Emily C. Russell
Assistant County Attorney
PO Box 40
Chesterfield, VA 23832-0040

And I will mail the document by U.S. mail to the following non-filing user:

Emily C. Russell
Assistant County Attorney
PO Box 40
Chesterfield, VA 23832-0040

By _____/s/_____

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