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September 13, 2023

VIA EMAIL

David Gaines  
City Manager—Addison, Texas  
Town Hall  
5300 Belt Line Rd.  
Dallas, TX 75254  
[REDACTED]

Re: White Rock Chapel

Dear Mr. Gaines:

McDermott Will & Emery and First Liberty Institute represent White Rock Chapel of Addison Inc. (“White Rock Chapel”), the owner of the property located at 5555 Celestial Rd., Dallas, TX 75254 (“the Chapel” or “the Property”). White Rock Chapel retained McDermott Will & Emery and First Liberty after the Addison City Council (the “Council”) denied White Rock Chapel’s Special Use Permit (“Permit”) on July 25, 2023. Please direct all future communications regarding this issue to me, my firm, or to First Liberty.

The City’s denial deprives a historic church—founded almost 150 years ago by formerly enslaved men and women—of its right to religious exercise. More specifically, the City prevents the church from making essential improvements so that it can continue to exist as a place of worship. A small but influential group of opponents have fought—thus far successfully—to stop the church from doing so. But the law is clear. Opposition by a few, no matter how hostile or influential they are, cannot override the church’s right of religious exercise.

As more fully explained below, White Rock Chapel’s right to make necessary improvements to continue as a place of worship is fully and clearly protected by the First and Fourteenth Amendments of the United States Constitution, the Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C. §§ 2000cc *et seq.* (“RLUIPA”), and the Texas Religious Freedom Restoration Act (“TRFRA”), Tex. Civ.

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Prac. & Rem. Code ch. 110 *et seq.* By denying White Rock Chapel's Permit, the Council deprived White Rock Chapel of its fundamental rights protected by federal and state law.

We demand that the Council immediately approve a new Permit for White Rock Chapel and acknowledge in writing that White Rock Chapel is within its legal rights to engage in improvements and religious activities at the Chapel. This letter also serves as required notice pursuant to Tex. Civ. Practice. & Rem. Code §110.006.

### **FACTUAL BACKGROUND**

There is no question that White Rock Chapel is an important historic site steeped in African American and overall American history. But first and foremost, it is a church. As a church, it seeks to be able to freely worship.

Founded in 1884, the Chapel began on the shady banks of White Rock Creek. There, worshippers—predominantly formerly enslaved men and women—purchased land and built the very first church out of rough-hewn logs. In 1918, however, years of devastating floods forced the congregation to move to higher ground. But thanks to the generous donation of a white landowner, who often worshipped with the Chapel's congregation over many years, land was obtained at what is now 5555 Celestial Place for the Chapel to continue its ministries and religious mission.

To be sure, the City's actions are far from the first adversity this resilient church has faced over its long history. A devastating storm destroyed the original building and the second burned down in a 1960 fire believed to be arson. Following that fire, the congregation worshipped in the tiny 1918 parsonage for 21 years, until the current church was built in 1981. The parsonage would later be replaced by the current fellowship hall in 2009.

Unfortunately, many more years of struggle within the small congregation followed. Eventually, this one-acre property at 5555 Celestial Road entered receivership on November 7, 2017. In August 2018, however, a religious and civic-minded family purchased the Property out of receivership through a limited liability corporation and donated it to White Rock Chapel. By doing so, this family saved this historic church from demolition and preserved its ability to continue as a church and its rich history and legacy.

It is White Rock Chapel's mission to not only preserve the Property as a vital historic site with educational activities to make others aware of its rich historic legacy, but to continue and improve it as a functional place of worship. Sadly, not everyone shares that vision and some fight against it.

Because the Chapel was established in 1884 and built at its current site in 1918—decades before the City was even incorporated—it was never zoned for its longstanding religious use. To compensate for this, the

City zoned the Chapel as a “Planned Development District”<sup>1</sup> and “grandfathered” it to function as a church up until the time White Rock Chapel purchased it in August 2018.<sup>2</sup> In fall 2021, the City instructed White Rock Chapel that it must apply for zoning as a church before it could open its doors as a church. Without such a zoning exemption, the Council will not consider any request for a building permit. In addition, the City ordered White Rock Chapel to apply for a Permit that would provide limits on church activities, since the Chapel resided in a residential neighborhood.<sup>3</sup>

As part of this Permit process, White Rock Chapel solicited input from surrounding neighbors for allowable activities and uses for the Property. To date, they have held three meetings on site—April 21, May 12, and November 29, 2022. Ten to forty-five neighbors attended these different meetings.

Unfortunately, a fierce and organized neighborhood resistance developed against the Chapel by early 2023. Bowing to that pressure, the City asked that White Rock Chapel negotiate the Permit’s conditions to satisfy the demands of five neighborhood representatives. Members of the Council explained that if White Rock Chapel could reach a consensus with these neighborhood representatives, the rest of the Council would support and approve the agreed-upon document. White Rock Chapel convened *seven times* with these representatives between February and July 2023 in an effort to arrive at consensus with their neighbors.

After White Rock Chapel conceded to nearly all of the representatives’ demands, the Council placed the Permit on the agenda for the April 18, 2023 Planning and Zoning Commission meeting. Yet, because a small number of neighbors remained displeased, the Planning and Zoning Commission removed the Permit from the April 18th agenda and placed it on the May 16th agenda. The Planning and Zoning Commission unanimously approved the Permit on May 16, 2023, but only after several more concessions by White Rock Chapel and despite the representatives’ continued visceral and antagonistic opposition.

Having passed the Planning and Zoning Commission, the Council placed the Permit on the June 13th Council meeting for final approval. The opponents asked the Council to postpone any consideration and voting to allow newly elected Council Members to “get up to speed.” In yet another attempt to appease these individuals, White Rock Chapel agreed to postpone voting until the July 25th Council meeting.

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<sup>1</sup> “The purpose of this district is to **encourage better development** in the town **by allowing more flexibility in the planning and development of projects**. Variable combinations of land use units such as industrial parks, office or commercial districts, mixed or uniform residential development, or other appropriate combination of uses **will be allowed** if developed and operated as integral land use units by a single owner or combination of owners.” See Addison, Texas Code of Ordinances, Appendix A – Zoning, Article XV. - Planned Development District, Section 1 – Purpose of district at [https://library.municode.com/tx/addison/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_APXAZO\\_ARTXVPLDEDI](https://library.municode.com/tx/addison/codes/code_of_ordinances?nodeId=PTIICOOR_APXAZO_ARTXVPLDEDI) (emphasis added).

<sup>2</sup> Note: from its inception in 1918 to 2018—or 100 years—not a single owner of White Rock Chapel has been required to apply for zoning changes/privileges to exist and function.

<sup>3</sup> The Chapel has been on its present site since 1918, and the surrounding neighborhood developed around it.

Because of the unrelenting opposition from neighbors immediately surrounding the Property, approval of the Permit required a nearly unanimous vote (6 of the 7 Council members) in favor.<sup>4</sup> Unfortunately, after a marathon 3-hour-plus Council meeting, the vote ended with 5-for and 2-against approval, resulting in the Permit's denial. The result is the deprivation of White Rock Chapel's well-established rights.

### **LEGAL ANALYSIS**

The City's denial of White Rock Chapel's Permit, despite it never being a requirement for a hundred years, despite its direct contradiction to the purpose of a "Planned Development District," and despite the Council willfully and freely granting similar Permits to immediate and surrounding neighbors, violates the protected rights of White Rock Chapel. The First Amendment, RLUIPA, and TRFRA do not tolerate this kind of unequal treatment.

#### **I. THE COUNCIL'S DENIAL VIOLATED WHITE ROCK CHAPEL'S PROTECTED RIGHTS UNDER THE FREE EXERCISE CLAUSE OF THE FIRST AMENDMENT.**

The Free Exercise Clause prohibits government action that burdens an individual's sincere religious practice with a policy that is not neutral or generally applicable. *Kennedy v. Bremerton Sch. Dist.*, 142 S. Ct. 2407, 2421–22 (2022). The Council's denial falls squarely within this prohibition, and White Rock Chapel reserves its rights to enforce that prohibition. *See* 42 U.S.C. § 1983.

##### **A. The Council's denial burdens White Rock Chapel's religious exercise under policies that are not generally applicable or neutral.**

The U.S. Supreme Court has held that government actions that burden a sincere religious practice and are not neutral towards religious exercise, or generally applicable, suffice to establish a violation of the First Amendment. *See Kennedy*, 142 S. Ct. at 2421–22; *Thomas v. Rev. Bd. of Indiana Emp. Sec. Div.*, 450 U.S. 707, 718 (1981).

There can be no question that White Rock Chapel "seeks to engage in a sincerely motivated religious exercise." *Kennedy*, 142 S. Ct. at 2422. For example, an essential part of White Rock Chapel's religious activity involves weekly Bible study. And since purchasing the Property in 2018, White Rock Chapel has engaged in this weekly gathering of worshippers to study the Bible.

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<sup>4</sup> Because written protests against the Permit had been filed with the city secretary and "duly signed by the owners of 20 percent or more either of the area of the lots or land included in such proposed change, or of the lots or land immediately adjoining the same extending 200 feet therefrom," the approval of the Permit could not become effective "except by the favorable vote of three-fourths (or six of seven Council Members) of all the governing body." *See* Addison, Texas Code of Ordinances, Appendix A – Zoning, Article XXIX.- Change and Amendments, Section 4 – Written protest at [https://library.municode.com/tx/addison/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_APXAZO\\_ARTXXIXCHAM\\_S4WRPR](https://library.municode.com/tx/addison/codes/code_of_ordinances?nodeId=PTIICOOR_APXAZO_ARTXXIXCHAM_S4WRPR).

At first, this weekly worship service began on site. However, absent a certificate of occupancy, and because the Council would not approve of one for zoning incongruity (i.e., not being zoned as a church), White Rock Chapel has ceased this on-site religious activity and moved it online. Moreover, all other on-site religious gatherings halted. In short, the Council's denial of the Permit, occupancy, and proper zoning has burdened White Rock Chapel's religious exercise through policies that are not neutral and generally applicable.

Government entities must treat religious activity in a neutral manner, and any action "that targets religious conduct for distinctive treatment" is subject to strict scrutiny. *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 546 (1993). Likewise, government entities violate principles of neutrality and general applicability "whenever they treat any comparable secular activity more favorably than religious exercise." *Tandon v. Newsom*, 141 S. Ct. 1294, 1296 (2021). And when laws provide discretion to government officials or are imposed pursuant to systems of "individualized exemptions," such laws are not generally applicable. *See Fulton v. City of Philadelphia*, 141 S. Ct. 1868, 1877–78 (2021) (applying strict scrutiny to a law that gave city officials the "sole discretion" to determine exemptions from the law).

When analyzing whether a government action is neutral, courts "meticulously" scrutinize *both* the action itself and the circumstances surrounding the action to ensure the action does not unlawfully suppress religious exercise. *Church of the Lukumi Babalu*, 508 U.S. at 534. Thus, the fact that the Council might articulate a facially neutral reason for its enforcement actions "is not determinative." *See id.*

The Free Exercise Clause also "forbids subtle departures from neutrality" and "covert suppression of particular religious beliefs." *Id.* (internal quotation marks omitted); *see also Masterpiece Cakeshop, Ltd. v. Colorado C.R. Comm'n*, 138 S. Ct. 1719, 1731 (2018). Therefore, to protect "against governmental hostility which is masked," courts examine "the historical background of the decision under challenge, the specific series of events leading to the [government action] in question, and the . . . administrative history, including contemporaneous statements made by members of the decision-making body." *Lukumi*, 508 U.S. at 534, 540.

Here, White Rock Chapel seeks a Permit to make the necessary improvements to the Property along with the ability to function as a church at its historic location. The improvements to the site are necessary for the upkeep and functionality of the property. On information and belief, the City has granted similar Permits for improvement on a regular basis in the neighborhood, undisturbed by the Council's interference. For example, permits to construct or improve homes, pools, driveways, etc. are likely to have occurred within this neighborhood before and after White Rock Chapel purchased the Property in 2018.<sup>5</sup>

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<sup>5</sup> For example: (1) 5545 Celestial Rd. was issued permit no. 12425 to remodel the home on January 16, 2008; (2) 14710 Celestial Pl. (Permit #1197) was issued permit no. 1197 to construct a pool on September 11, 2002; (3) 5510 Celestial Rd. was issued permit no. 4813 to remodel the home on October 01, 2001; (4) 14734 Celestial Pl. was issued permit no. 517 to construct a pool on September 11, 2002; (5) 5656 Celestial Rd. was issued permit no. P0120110584 to construct a pool on May 24, 2011; (6) 14678 Winnwood Rd. was issued permit no. 7980 to remodel the home on May 20, 2004; and (7) 14932 Winnwood Rd. was issued permit no. 553 to construct a pool on September 11, 2002 to name a few.

Yet the Council has targeted White Rock Chapel with an overly aggressive application of its zoning code while failing to take a similarly aggressive position against other private constructions and improvements in neighboring homes. Like the State of California in *Tandon*, here the Council is allowing Permits of a secular nature while prohibiting Permits of a religious nature. *See Tandon*, 141 S. Ct. at 1297. This simply is not neutral application of the law.

As it relates to the municipal authorization to function as a religious and historical site, the Council takes a similar aggressive and wrongful stance. Such gatherings for White Rock Chapel are, by design, relatively small, intimate, and conducted in accordance with the church's faith and the site's historical mission. The number of individuals in attendance is comparable to other gatherings that regularly occur in the neighborhood. For example, on information and belief, pool parties, birthday celebrations, family gatherings, and more of similar size to White Rock Chapel's prayer meetings occur on a regular basis in the neighborhood. Moreover, larger activities, such as weddings, school visits, company events, and other celebrations that are similar in size to other larger gatherings occur in the neighborhood during the holidays and beyond. Yet, the Council refuses White Rock Chapel its Permit for religious and historical observance while allowing the same neighbors to conduct similar gatherings and occurrences without interference. This too falls far short of neutral application of the law.

Further, upon information and belief, the Council maintains the discretion to grant variances on the zoning requirements that it is overzealously enforced against White Rock Chapel. The Council appears to have complete discretion on the question of whether or not to grant these variances. As the Supreme Court explained in *Fulton*, the law is not generally applicable where it allows for a system of individualized exceptions, especially where, as here, those exceptions are completely discretionary. *See Fulton*, 141 S. Ct. at 1877.

Ultimately, by denying White Rock Chapel's Permit, the Council has foreclosed any possibility for White Rock Chapel to function and exist. This one-hundred-year-old religious institution—a church established 35 years before the city of Addison—can no longer gather and worship because the city that developed around it now refuses to allow its existence. And the circumstances surrounding the zoning, Permit, and occupancy proceedings against White Rock Chapel raise more than a “slight suspicion” that the proceedings unlawfully “stem from animosity to religion” and are therefore subject to strict scrutiny. *See Lukumi*, 508 U.S. at 547.<sup>6</sup>

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<sup>6</sup> Indeed, by denying the Church's application despite garnering approval from a majority of the Council, the Council is applying its laws in a manner that capitulates to a heckler's veto, something that has no place in our constitutional order. *Kennedy v. Bremerton Sch. Dist.*, 142 S. Ct. 2407, 2432 n.8 (2022).

**B. The Council’s denial of the Permit fails strict scrutiny.**

Where, as here, the government substantially burdens religious exercise in a manner that is neither neutral nor generally applicable, the Council bears the burden of proving its actions satisfy strict scrutiny. That is, the Council must prove its actions are furthering “interests of the highest order by means narrowly tailored in pursuit of those interests.” *Tandon*, 141 S. Ct. at 1298 (internal quotation marks omitted); *see also Wisconsin v. Yoder*, 406 U.S. 205, 215 (1972) (“only those interests of the highest order and those not otherwise served can overbalance legitimate claims to the free exercise of religion”).

As stated above, by denying White Rock Chapel’s Permit, the Council foreclosed on any possibility for White Rock Chapel to gather, worship, function, or even exist. And although the Council may argue that denying the Permit was for “due process” reasons, to keep the neighborhood residential, or to minimize community disturbances, such motives do not rise to the highest levels to satisfy strict scrutiny.

Even assuming the Council’s interests were compelling—which they are not—it cannot show how a permanent prohibition on White Rock Chapel is a narrowly tailored way to advance those interests. Government action that burdens religious exercise is narrowly tailored *only if* it is the “least restrictive means of achieving some compelling state interest.” *Thomas*, 450 U.S. at 718. That is, the Council must “show that measures less restrictive (other than an all-out ban) of the First Amendment activity could not address its interest.” *Tandon*, 41 S. Ct. at 1296–97.

Less restrictive measures abound here. Indeed, by unanimous vote, the Planning and Zoning Commission voted and recommended the approval of the Permit subject to multiple “less restrictive means,” including means that are arguably overly burdensome. Therefore, because other alternatives exist that satisfy governmental interest other than an outright ban of White Rock Chapel’s right to exercise religion, the Council cannot satisfy strict scrutiny.

In sum, the denial by the Council of White Rock Chapel’s Permit violates the First Amendment, giving rise to liability for declaratory, injunctive, and compensatory relief, as well as attorney fees. *See* 42 U.S.C. §§ 1983, 1988. Furthermore, damages are available against government officials in their individual capacities when they deprive a person, or group of people, of rights secured by the U.S. Constitution. *See Kentucky v. Graham*, 473 U.S. 159, 166 (1985) (“an award of damages against an official in his personal capacity can be executed . . . against the official’s personal assets.”).

**II. THE COUNCIL’S DENIAL VIOLATED WHITE ROCK CHAPEL’S PROTECTED RIGHTS UNDER RLUIPA.**

For the same reasons that the Council’s actions and interests cannot satisfy the First Amendment’s strict scrutiny test, they also cannot satisfy RLUIPA and its strict scrutiny test. RLUIPA’s provisions provide, in pertinent part:

No government shall impose or implement a land use regulation in a manner that imposes a *substantial burden* on the *religious exercise* of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly, or institution—

(A) is in furtherance of a compelling governmental interest; and

(B) is the least restrictive means of furthering that compelling governmental interest.

42 U.S.C. § 2000cc(a)(1) (emphasis added).

RLUIPA defines “religious exercise” broadly to encompass “any exercise of religion, whether or not compelled by, or central to, a system of religious belief.” 42 U.S.C. § 2000cc–5(7)(A). Further, RLUIPA considers the use of real property for religious exercise purposes to be religious exercise. *Id.* § 2000cc–5(7)(B).

In addition, RLUIPA’s “substantial burden” provision applies if the regulation at issue involves “individualized assessments of the proposed uses for the property involved.” *Id.* § 2000cc(a)(2)(C). In other words, RLUIPA’s “substantial burden” provision is activated when the government “take[s] into account the particular details of an applicant’s proposed use of land when deciding to permit or deny that use.” *Guru Nanak Sikh Soc. of Yuba City v. County of Sutter*, 456 F.3d 978, 986, 988–92 (9th Cir. 2006).

Here, it undisputed that White Rock Chapel desires to use the Property for religious exercise purposes. Yet having taken this particular purpose into account, the Council denied the Permit for White Rock Chapel. Thus, the Council’s prohibition (or outright denial for White Rock Chapel to exist) “substantially burdens” White Rock Chapel’s “religious exercise” as defined by RLUIPA, triggering the application of strict scrutiny.

Substantial burden is also often present where, as here, White Rock Chapel has no “ready alternatives” available to it that could accommodate prayer meetings, Bible study, or other religious gatherings for worshipers. *Int’l Church of Foursquare Gospel v. City of San Leandro*, 673 F.3d 1059, 1068 (9th Cir. 2011) (internal quotation marks omitted) (“And when the religious institution has no ready alternatives, or where the alternatives require substantial ‘delay, uncertainty, and expense,’ *a complete denial* of the [religious institution’s] application might be indicative of a substantial burden.” (internal quotation marks omitted)) (emphasis added).<sup>7</sup>

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<sup>7</sup> See also *Westchester Day Sch. v. Vill. of Mamaroneck*, 504 F.3d 338, 353 (2d Cir. 2007) (preventing religious school from expanding its facilities to engage in religious education substantially burdened its religious exercise); *DiLaura v. Ann Arbor Charter Twp.*, 30 F. App’x 501, 510 (6th Cir. 2002) (denial of zoning variance preventing individuals from assembling on land



That White Rock Chapel could hypothetically relocate services online, or worship elsewhere (thus obliterating its historical significance), does not alter that analysis. See *Holt v. Hobbs*, 574 U.S. 352, 361–62 (2015) (explaining the substantial burden inquiry does not ask “whether [the religious adherent] is able to engage in other forms of religious exercise”). After all, “a burden need not be found insuperable to be held substantial.” *Int’l Church of Foursquare Gospel v. City of San Leandro*, 673 F.3d 1059, 1068 (9th Cir. 2011) (internal quotation marks omitted); see also *Sts. Constantine and Helen Greek Orthodox Church, Inc. v. City of New Berlin*, 396 F.3d 895, 901 (7th Cir. 2005) (holding that “delay, uncertainty, and expense” associated with relocating to another property for worship was a substantial burden).

Because the Council’s prohibition of White Rock Chapel substantially burdens its religious exercise, the Council must prove its actions are “in furtherance of a compelling governmental interest” and “the least restrictive means of furthering that compelling governmental interest.” 42 U.S.C. § 2000cc(a)(1). And for the same reasons that the Council cannot satisfy this demanding standard under the First Amendment, it also cannot satisfy the “exceptionally demanding” standard under RLUIPA. *Holt*, 574 U.S. at 364 (quoting *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 728 (2014)).

RLUIPA also prevents cities from “impos[ing] or implement[ing] a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution.” 42 U.S.C. § 2000cc(b)(1). These “equal terms” claims can be brought as an “as-applied challenge[ ],” that is, a claim that a city is “‘implementing,’ i.e., enforcing, a facially neutral ordinance in a discriminatory manner.” *New Harvest Christian Fellowship v. City of Salinas*, 29 F.4th 596, 604 (9th Cir. 2022) (cleaned up).

An as-applied equal-terms challenge to the Council’s denial readily arises here. Since February 2022, the Council has known of White Rock Chapel’s intent to **make improvements** and **function** as a religious and historical institution. Related to improvements, White Rock Chapel *only* submitted **minor exterior** and **landscaping improvements**, but these were ultimately denied—something that is typically and readily approved of for surrounding neighbors. Moreover, White Rock Chapel intended to exist as a small religious and historical institution, but the Council subjected White Rock Chapel to plans and conditions that were **far more restrictive** than its surrounding neighbors, including parking, gatherings, open space and landscape use, lighting, and noise. Of course, these restrictions are now moot since the Council denied White Rock Chapel’s opportunity to exist. But, “[b]y applying different standards for religious gatherings and nonreligious gatherings having the same impact, [the Council’s denial] impermissibly targets religious assemblies.” *Konikov v. Orange County*, 410 F.3d 1317, 1329 (11th Cir. 2005).

Thus, the Council’s denial for White Rock Chapel’s Permit also violates RLUIPA.

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for religious purposes constituted substantial burden); *Redeemed Christian Church of God (Victory Temple) Bowie v. Prince George’s Cnty.*, 485 F. Supp. 3d 594, 604 (D. Md. 2020) (holding the denial of a water and sewer category change that prevented the development of a proposed church constituted a substantial burden).

### III. THE COUNCIL'S DENIAL VIOLATED WHITE ROCK CHAPEL'S PROTECTED RIGHTS UNDER THE TRFRA.

As much as the Council's actions and interests cannot satisfy the First Amendment's strict scrutiny test and RLUIPA's strict scrutiny test, it further cannot satisfy the strict scrutiny test under TRFRA:

“[A] government agency may not *substantially burden* a person's *free exercise of religion* [unless it] (1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that interest.”

Tex. Civ. Prac. & Rem. Code Ann. § 110.003 (emphasis added). Moreover, this law “applies to any ordinance, rule, order, decision, practice, or other exercise of governmental authority. Tex. Civ. Prac. & Rem. Code Ann. § 110.002.

For a “substantial burden” on the “free exercise of religion” to be met, Texas courts focus “on the degree to which a person’s religious conduct is curtailed and the resulting impact on his religious expression, as measured . . . from the person’s perspective, not from the government’s.” *A.A. ex rel. Betenbaugh v. Needville Indep. Sch. Dist.*, 611 F.3d 248, 264 (5th Cir. 2010) (internal quotations omitted). And, if the government’s action is an outright ban, that “*ban* of conduct sincerely motivated by religious belief *substantially burdens* an adherent’s free exercise of that religion.” *Id.* (emphasis added); *see also Barr v. City of Sinton*, 295 S.W.3d 287, 302 (Tex. 2009) (holding that a complete prohibition for a pastor to open his halfway house within city limits was a “substantial burden” on the pastor’s free exercise of religion).

Here, the denial of White Rock Chapel’s Permit to improve and function cannot be seen as anything less than a substantial burden on its ability to freely exercise religion under TRFRA. As such, like under the Free Exercise Clause of the First Amendment and RLUIPA, strict scrutiny—or a compelling governmental interest with the least restrictive means—applies. But, as stated previously, the Council cannot satisfy strict scrutiny—simply because the Planning and Zoning Commission voted and recommended the approval of the Permit, by unanimous vote, and subject to multiple “less restrictive means.”

Thus, by denying the Permit, the Council has deprived White Rock Chapel of its protected rights under TRFRA.

### CONCLUSION

Because the Council denied White Rock Chapel’s Permit, it barred any possibility for White Rock Chapel to function and exist. Such a deliberate prohibition is in direct violation of state and federal law and constitutionally protected freedoms. The Council must immediately approve of a Permit that will allow White Rock Chapel to engage in religious and educational activities. Should the Council nevertheless persist in its denial of White Rock Chapel’s right to religious exercises, it will pursue all available legal options, not limited to the principles articulated herein.

David Gaines, City Manager, Addison, Texas  
September 13, 2023  
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Thank you for your attention to this matter. If we may be of further service, or if you wish to discuss further, please do not hesitate to call or email us.

Respectfully,

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