

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

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CHURCH OF THE ROCK, INC., *d/b/a* THE  
ROCK,

*Plaintiff,*

Case No. \_\_\_\_\_

*v.*

**DEMAND FOR JURY TRIAL**

THE TOWN OF CASTLE ROCK, COLORADO,

*Defendant.*

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**PLAINTIFF CHURCH OF THE ROCK, INC.'S COMPLAINT**

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Plaintiff Church of the Rock Inc., *d/b/a* The Rock (hereinafter, “Plaintiff” or the “Church”), by its undersigned attorneys at Troutman Pepper Hamilton Sanders LLP and First Liberty Institute, hereby provides its Complaint against Defendant the Town of Castle Rock, Colorado (hereinafter, the “Town”), as follows:

**NATURE OF THE ACTION**

1. Plaintiff The Rock is a non-denominational Christian church located on a 54-acre property in the Town of Castle Rock, Colorado.

2. Among its many other religious activities and charitable ministries, the Church operates as part of its religious beliefs and mission an On-Site Temporary Shelter Ministry, where it provides temporary shelter in RVs and/or trailers parked on its property to individuals and small families experiencing homelessness, and also a partnership with the Red Cross, where the Church serves as a temporary shelter

during emergencies in Castle Rock for needy individuals who are impacted by those unforeseen emergency events.

3. These ministries of the Church have provided essential aid to numerous homeless and/or displaced individuals in the Town of Castle Rock, a jurisdiction that has no other temporary-shelter alternatives within the Town or County limits for these needy individuals.

4. Given the Church’s safety and security measures, there have been no public-safety concerns from the Church’s efforts to provide this temporary shelter.

5. These ministries are squarely within the long tradition of American “churches . . . offer[ing] their help” to “homeless people,” a laudable practice that is as “common now as it was at the founding” and which the Office of the Solicitor General recently praised before the U.S. Supreme Court. Oral Arg. Tr. at 84–85, *City of Grants Pass v. Johnson*, No.23-175 (U.S. Apr. 22, 2024).<sup>1</sup>

6. The Town of Castle Rock and certain of its officials (hereinafter, collectively, “the Town”), have shut down the Church’s On-Site Temporary Shelter Ministry and its Red Cross Partnership, apparently operating on the cynical thesis that they do not want the homeless in their area.

7. So, as a direct result of the Town’s actions, the Church is no longer able to offer temporary shelter to individuals or small families experiencing homelessness

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<sup>1</sup> Available at [https://www.supremecourt.gov/oral\\_arguments/argument\\_transcripts/2023/23-175\\_dc8f.pdf](https://www.supremecourt.gov/oral_arguments/argument_transcripts/2023/23-175_dc8f.pdf) (all websites last accessed May 8, 2024).

as part of its On-Site Temporary Shelter Ministry, or to offer temporary shelter to displaced individuals during times of emergency as part of its Red Cross Partnership.

8. This means that, due to the Town's actions, the Church must now turn away homeless or displaced individuals and small families in the Town of Castle Rock rather than provide them with temporary shelter and other aid, contrary to the Church's religious beliefs and religious mission.

9. Yet, the Church has regularly assisted such needy individuals as part of its ministries over the years, and it is certain to encounter many such individuals during the pendency of this lawsuit.

10. The Town's prohibition of the Church's On-Site Temporary Shelter Ministry and Red Cross Partnership violates the Church's fundamental free-exercise rights, as protected by the Religious Land Use and Institutionalized Persons Act ("RLUIPA"), 42 U.S.C. § 2000cc *et seq.*, and the Free Exercise Clause of the First Amendment, as well as the Establishment Clause of the First Amendment.

11. The Church brings this lawsuit to vindicate its fundamental free-exercise rights, as protected by RLUIPA and the Free Exercise Clause, as well as the Establishment Clause.

### **JURISDICTION AND VENUE**

12. This action arises under the Constitution and laws of the United States. This action raises federal questions under the First and Fourteenth Amendments to the United States Constitution, 42 U.S.C. § 1983, and under RLUIPA, 42 U.S.C. §§ 2000cc *et seq.*

13. This Court has subject-matter jurisdiction under 28 U.S.C. §§ 1331, 1343, and 42 U.S.C. § 2000cc(a)(1).

14. This Court has authority to issue the declaratory and injunctive relief sought under 28 U.S.C. §§ 2201, 2202, and 42 U.S.C. § 2000cc-2.

15. This Court can award costs and attorneys' fees under 42 U.S.C. § 1988(b).

16. Venue lies in this district under 28 U.S.C. § 1391(b)(1) because Defendant resides in the District of Colorado.

17. Venue also lies in this district under 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claims in this lawsuit occurred in the District of Colorado.

## **PARTIES**

18. Plaintiff Church of the Rock Inc., *d/b/a* The Rock is a non-denominational Christian Church located at 4881 Cherokee Dr., Castle Rock, CO 80109.

19. Defendant the Town of Castle Rock, Colorado, is a home-rule municipality located in Douglas County, Colorado.

## **FACTUAL ALLEGATIONS**

### **I. The Church And The Town Of Castle Rock, Within Douglas County**

#### **A. General Background On The Church**

20. The Church is an evangelical, non-denominational Christian church with approximately 250 members and is located in Castle Rock, Colorado.

21. The Church was founded in the mid-1980s in Castle Rock and was originally located in downtown Castle Rock.

22. The Church's mission is to "Pursue God, Embrace People, and Transform Society through Real Family."

23. Like most Christian churches, the Church regularly holds worship services, Sunday School, classes connecting religious experience to practical life application, prayer groups, Bible studies, and other religious events.

24. The Church also hosts, and is involved in the governance of, the Castle Rock Christian Academy, which is a private Christian school within the Church's facilities that offers kindergarten through sixth grade classes.

25. The Church also has a ministry to children and families through its licensed preschool, Castle Rock Christian Learning Center. The preschool works with families of all incomes and backgrounds through its state and county partnerships with programs like Universal Pre-K (UPK) and Colorado Child Care Assistance Program for Families.

26. The Church is led by an executive team, an eldership council, and a board of trustees, along with its lead pastor.

27. The lead pastor is responsible for leading the Church in the carrying out of its mission. He is also the primary teaching pastor for the church by which he inculcates the Church's mission to its members. Pastor Micah Polhemus has held the position of lead pastor since 2017.

28. Additionally, the Church has a staff of eight full-time staff members and ten part-time staff members.

29. The Church currently occupies a 54-acre property located on the western edge of Castle Rock (hereinafter, the “Property”).

**B. General Background On The Town Of Castle Rock And Douglas County**

30. Castle Rock is located within Douglas County, Colorado, and is the seat of the Douglas County government.

31. Castle Rock is about a 45-minute drive south of Denver, Colorado.

32. Douglas County has experienced significant population growth since the 1980s—the time of the Church’s founding in Castle Rock.

33. According to publicly available sources, Douglas County’s population in 1980 was 25,153 people; in 1990 it was 60,391 people; in 2000 it was 175,766 people; in 2010 it was 285,465 people; and in 2020 it was 357,978 people. *See* State Demography Off., Colo. Dep’t of Loc. Affs., *Historical Census Population Lookup*.<sup>2</sup>

34. Relatedly, the Town of Castle Rock itself has experienced significant growth in the decades after the Church’s founding.

35. According to publicly available sources, Castle Rock’s population in 1980 was 3,921 people; in 1990 it was 8,708 people; in 2000 it was 20,224 people; in 2010 it was 48,231 people; and in 2020 it was 73,158 people. *See id.* Thus, from the time

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<sup>2</sup> Available at [https://demography.dola.colorado.gov/assets/lookups/historical\\_census\\_lookup.html](https://demography.dola.colorado.gov/assets/lookups/historical_census_lookup.html).

the Church was constructed in 2006 until 2024, Castle Rock's population has more than doubled.

36. Further, Castle Rock has developed into a relatively affluent area. For example, according to publicly available sources, the median value of owner-occupied housing is approximately \$577,500, and the median household income is approximately \$135,985. U.S. Census Bureau, *Castle Rock town, Colo.*<sup>3</sup>

### **C. The Church's Current Location And Facilities**

37. In 1999, the Church purchased the 54-acre Property that it currently occupies and relies upon to fulfill its religious mission.

38. At the time, the Property was located in an unincorporated area of Douglas County, outside of Castle Rock's limits.

39. The Church purchased the Property when it was a vacant lot, began construction around 2004, and then moved to the Property from downtown Castle Rock once construction was complete in 2006.

40. Current pictures of the Church's Property—taken either from Google Maps/Google Earth, or by drone—are found immediately below and are reproduced as Exhibits 1–6.

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<sup>3</sup> Available at <https://www.census.gov/quickfacts/fact/table/castlerocktowncolorado/PST0452>.









41. As can be seen in the above pictures, the Church's Property contains a main church building situated at the center of the Property. The main church

building has approximately 54,000 square feet of space. The main church building contains the Church's sanctuary or worship area; various offices; a gym/student center auditorium; a commercial kitchen; a food bank; a large foyer; spaces for a nursery, preschool, and K-6 school; and various storage areas for the Church's many ministries.

42. The Church's main church building also has a coffee bar to serve and/or sell coffee for those visiting the Church, as shown below and attached as Exhibit 7. The coffee bar supports the Church's efforts to encourage religious fellowship within the Church.



43. To the rear (western side) of the main church building, there are several outbuildings for storage and school purposes.

44. The main church building is first surrounded by parking lots of various sizes and then by the church's open, undeveloped land. Beyond the western edge of

the Property is more open, undeveloped land not owned by the Church that is in unincorporated Douglas County.

45. The main church building/surrounding parking lots may only be reached via Cherokee Drive, an approximately 850-foot paved road that is connected to, and accessible from, other residential streets in Castle Rock.

46. The Church owns the portion of Cherokee Drive that is located on its Property. That is, once Cherokee Drive crosses the Church’s property line, Cherokee Drive itself becomes the Church’s Property, as shown in the picture below, which is also reproduced at Exhibit 8.



47. The Church’s 54-acre Property is abutted on three sides by a Town of Castle Rock neighborhood called “the Meadows,” which, according to publicly available sources, is a 4,000-acre master planned community.

48. Specifically, the Property lies within the northwest corner of the Meadows, as shown in the below picture, which is also reproduced at Exhibit 9.



49. Thus, houses and residences border the north, east, and south of the Church's 54-acre Property. As noted above, beyond the western border of the Church's property lies open, undeveloped land.

50. The distance between the northern edge of the Church's parking lot and the nearest property on the edge of the Meadows neighborhood is about 300 feet, as shown in Exhibit 10.



51. The Church’s paved parking lot and associated driving lanes encircle the main Church building; the Church’s open, undeveloped land extends outward from the paved parking lot.

**D. The Town Of Castle Rock’s General Zoning Authority And Planned Development Zones**

52. The Town of Castle Rock controls its own zoning through rights derived from the Colorado Constitution. Colo. Const. art. XX, § 6.

53. The Castle Rock Municipal Code (“CRMC”) Title 17 contains the Town’s zoning provisions. *See generally* Castle Rock, Colo., Mun. Code tit. 17.

54. The Castle Rock Zoning Division is led by Tammy King, (hereinafter “Zoning Manager”), who implements and oversees the zoning code. CRMC §§ 17.01.030, 17.01.060.

55. The Town zoning code and powers delegated to the Zoning Manager govern all property within the Town.

56. Some parcels, such as the Property, are zoned as a Planned Development (“PD”) zone. CRMC § 17.32.010.

57. The PD Regulations specify the permitted uses, densities and other important development controls for each use and the property as a whole, attached here as Exhibit 26.

58. As relevant here, in a PD District, the property owner proposes a PD Plan and PD Regulations which will govern the development and use of the property, in addition to the Town’s general zoning regulations.

59. The PD property owner and Town negotiate an agreeable zoning arrangement and the Town subsequently approves (and records the agreement as a PD zone) or denies the PD Plan and zoning. CRMC § 17.34.50.

**E. The Town Of Castle Rock Annexes The Church's Property And Adopts Planned Development Zoning District Ordinances For The Property**

60. After the Church purchased the Property in the late 1990s, the Church and the Town worked to draft zoning regulations for the Property in anticipation of the Property being annexed into Castle Rock.

61. In 2003, after public notice and hearing, the Town zoned the Property as a PD Zone.

62. Specifically, on August 12, 2003, the Town passed Ordinance 2003-27, amending the Town's zoning code to permit the annexation of the Property into the Town, while also approving of a "Annexation and Development Agreement" between the Town and the Church (the "Agreement"), attached here as Exhibit 11.

63. The Agreement remains in place today.

64. The Agreement sets forth certain obligations for the Church and the Town, including municipal services, permitted development, growth-area limitations, water rights, facilities development, and remedies for breach of the Agreement.

65. Under the Agreement, the Town and the Church agreed on specific zoning rules applicable to the Property, which are known as "Planned Development Zoning District."

66. Under the Town’s Planned Development Zoning District regulations for the Church (“PD Regulations”), the Church may use the Property for “Church and related uses,” including certain specifically listed uses, including (1) church; (2) church related educational facilities; (3) church-related day-care center subject to licensing requirements of the State; (4) trails, pedestrian and bicycle; (5) open space and ponds to include storm water drainage detention areas; (6) indoor and outdoor church-related recreational facilities; and (7) utilities and appurtenant facilities, including but not limited to water and sewer, electric service, gas service, telephone and cable service, and drainage facilities. PD Regulations, § F.1.b.

67. The PD Regulations further provide that the PD Regulations prevail and govern over the Town’s zoning code unless there is a code provision that addresses a particular subject not addressed in the PD Regulations. *Id.*, § A.4.

## **II. The Church Carries Out Various Ministries To Help Needy Members Of The Local Community Because Of Its Religious Faith/Religious Mission**

68. Among its other religious activities, the Church carries out various ministries to help needy members of the local community as a direct result of its religious beliefs—including its religious mission and numerous teachings from the Holy Bible.

69. As an evangelical Christian church, the Church follows the teachings of the Holy Bible, including, as especially relevant here, the injunction to care for the



poor and needy and serve “the least of these.” *Matthew* 25:40 (New International Version).<sup>4</sup>

70. This is why the Church’s primary mission is “Pursue God, Embrace People, and Transform Society through Real Family.”

71. Indeed, the Holy Bible specifically and repeatedly directs faithful Christians like the Church’s members to care for the poor and needy out of compassion and mercy for those who are experiencing significant misfortune and hardship. *See, e.g., Deuteronomy* 15:10–11; *Isaiah* 58:6–8; *Proverbs* 19:17, 21:13, 28:27 & 29:7; *Leviticus* 25:35–36; *Luke* 6:38, 11:41; *James* 2:14–17; *Matthew* 25:37–40.

72. For example, *Deuteronomy* 15:10–11 admonishes that the faithful must “[g]ive generously to [the poor] and do so without a grudging heart,” and be “openhanded toward . . . [the] poor and needy.”

73. *Isaiah* 58:6–8 compels the Church to love all those who seek its support and to provide shelter to those in need: “Is not this the kind of fasting I have chosen: to loose the chains of injustice and untie the cords of the yoke, to set the oppressed free and break every yoke? Is it not to share your food with the hungry and to provide the poor wanderer [“homeless,” according to the New Living Translation] with shelter—when you see the naked, to clothe them, and not to turn away from your own flesh and blood? Then your light will break forth like the dawn, and your healing will

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<sup>4</sup> All subsequent citations of the Holy Bible in this Complaint are also taken from the New International Version (NIV).

quickly appear; then your righteousness will go before you, and the glory of the LORD will be your rear guard.”

74. Proverbs 19:17 teaches that “whoever is kind to the poor lends to the LORD, and he will reward them for what they have done.”

75. Proverbs 21:13 provides that “[w]hoever shuts their ears to the cry of the poor will also cry out and not be answered.”

76. Proverbs 28:27 provides that “those who give to the poor will lack nothing, but those who close their eyes to them receive many curses.”

77. Proverbs 29:7 confirms that “[t]he righteous care about justice for the poor, but the wicked have no such concern.”

78. Leviticus 25:35–36 requires that “[i]f any of your fellow Israelites become poor and are unable to support themselves among you, help them as you would a foreigner and stranger, so they can continue to live among you. Do not take interest or any profit from them, but fear your God, so that they may continue to live among you.”

79. In Luke 11:41, Jesus instructed His followers that “[b]ut now as for what is inside you—be generous to the poor, and everything will be clean for you.”

80. The Church conducts *all* the ministries described below because it sincerely follows the religious teachings explicitly found in the Holy Bible and embodied in the Church’s mission statement.

81. Additionally, the Holy Bible *also* teaches Christians that caring for the poor and needy is a measure of a Christian’s faith, such that God will judge us on the

Last Day in part based upon how we have cared for “the least of these.”  
*Matthew 25:40.*

82. For example, in Luke 6:38, Jesus said, “Give, and it will be given to you. A good measure, pressed down, shaken together and running over, will be poured into your lap. For with the measure you use, it will be measured to you.”

83. James 2:14–17 further compels the faithful to take action to provide for those in need: “What good is it, my brothers and sisters, if someone claims to have faith but has no deeds? Can such faith save them? Suppose a brother or a sister is without clothes and daily food. If one of you says to them, ‘Go in peace; keep warm and well fed,’ but does nothing about their physical needs, what good is it? In the same way, faith by itself, if it is not accompanied by action, is dead.”

84. Matthew 25:31–40 provides that the faithful will be judged by God based upon how Christians provide for those in need: “When the Son of Man comes in his glory, and all the angels with him, he will sit on his glorious throne. All the nations will be gathered before him, and he will separate the people one from another as a shepherd separates the sheep from the goats. He will put the sheep on his right and the goats on his left. Then the King will say to those on his right, ‘Come, you who are blessed by my Father; take your inheritance, the kingdom prepared for you since the creation of the world. For I was hungry and you gave me something to eat, I was thirsty and you gave me something to drink, I was a stranger and you invited me in, I needed clothes and you clothed me, I was sick and you looked after me, I was in prison and you came to visit me.’ Then the righteous will answer him, ‘LORD, when

did we see you hungry and feed you, or thirsty and give you something to drink? When did we see you a stranger and invite you in, or needing clothes and clothe you? When did we see you sick or in prison and go to visit you? The King will reply, “Truly, I tell you, whatever you did for one of the least of these brothers and sisters of mine, you did for me.”

85. Some of the Church’s ministries for local community members in need are described below, and a more fulsome list of the Church’s ministries is available on the Church’s website. *See* The Rock Church, *Ministries*.<sup>5</sup>

**A. Food Bank Ministry**

86. Since 2018, the Church has operated a robust Food Bank Ministry on its property as practical way to help meet the immediate needs of those in the surrounding community by supplying essential food to needy individuals. *See* Ex.12 (photographs of the Food Bank Ministry).

87. Since its inception in 2018, the Church’s Food Bank Ministry has grown rapidly from simply distributing essential food and goods to needy individuals stacked on a few bookshelves to distributing a running stock of about 100,000 pounds of food stored in several large rooms and walk-in refrigerators and freezers within the Church’s main building.

88. Now, each year, the Church’s Food Bank Ministry distributes around 400,000 pounds of food to needy individuals and families throughout Colorado.

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<sup>5</sup> Available at <https://www.therock.org/ministries/>.

**B. “Blessing Room” Clothing Bank**

89. The Church also operates its “Blessing Room” Clothing Bank for needy individuals who need assistance with clothing and other personal supplies. *See Ex.27* (photographs of the “Blessing Room”).

90. The Church operates the “Blessing Room” Clothing Bank from a large room within its main church building.

91. The “Blessing Room” is filled with men’s, women’s, and children’s clothing, shoes and accessories, as well as home-decor and small kitchen items.

92. The Church fills this room with these supplies and then distributes them for free to needy community members approximately every two weeks.

93. As an example of a typical scenario, families who have lost their homes to fire may be referred to the Church’s “Blessing Room” Clothing Bank by the Douglas County Sheriff’s Office or the Colorado State Patrol, and the Church will supply these needy families with free clothing and other essential items in this time of need.

**C. Winter Shelter Network**

94. In 2016, the Church recognized that there was a particularly dire need to shelter individuals experiencing homelessness in the Town of Castle Rock, as there was no location in Douglas County or Castle Rock dedicated to temporarily sheltering these individuals.

95. This prompted the Church to help start the “Winter Shelter Network”—a joint effort of Douglas County, local churches like the Church and other aid organizations—to temporarily shelter women and their children experiencing

homelessness overnight during winter months, seven days a week from November 1 to March 31 to protect the lives and livelihoods of these individuals and families.

96. Specifically, the Winter Shelter Network was a “Douglas County Faith-Based Initiative” whereby a group of seven churches throughout Douglas County—with the support of the Douglas County Board of Commissioners and three other churches—joined together to temporarily shelter homeless women and children on their campuses during Colorado’s winter months.

97. During its operation, the Winter Shelter Network operated at the Church from Saturday morning to Sunday morning from November to March, with the Church providing meals, transportation, laundry services, and temporary shelter for up to 45 women and children in the Church’s auditorium attached to its main worship center.

98. Providing these services required Church staff and volunteers to assemble cots, prepare meals, provide caretaking, as well as monitor the premises overnight.

99. During this time, Church staff members and volunteers also worked with individuals temporarily sheltering through the Winter Shelter Network to give them advice, assistance, and resources aimed at securing employment and a permanent housing solution.

100. Ten churches participated in the Winter Shelter Network, as noted above. Seven of the ten participating churches, including the Church, temporarily

sheltered these women and their children one night each week, while the other three churches contributed volunteers and/or funding for the program only.

101. The Winter Shelter Network publicly announced in March 2023 that it would cease operations due to difficulties caused by the COVID-19 pandemic, making 2022 the last full winter that the Winter Shelter Network was active. It is unknown whether operations will restart at a later date.

**D. Financial Assistance**

102. The Church has a long history of helping individuals in need through Financial Assistance. Since the early 2000s the Church has annually taken up a special offering during the Christmas season specifically for helping individuals and families throughout the year who need financial assistance for utilities, rent or auto repairs.

103. Over the past few years, the Church has increased the amount of financial assistance provided. The Church has gone from helping dozens of families annually to helping hundreds of families annually, all who were struggling to pay the costs of rent and/or utilities.

104. The Church's aid to families struggling to pay the costs of rent and/or utilities has totaled over \$2.5 million dollars during over the past three years (2021–2023).

105. This aid from the Church has prevented over 120 evictions since 2021.

**E. Douglas County Partnership**

106. The Church and Douglas County have a strong, ongoing relationship in which Douglas County refers individuals to the Church for assistance for a variety of situations.

107. For example, the Church partners with Douglas County to provide caseworkers for the County's Temporary Assistance for Needy Families (TANF) program. The Church administers the TANF program by providing financial assistance to Douglas County residents with one or more children living at home and who have a household income of less than \$75,000 per year. The TANF funds can be used for rent, mortgage, utilities, auto repair, or insurance. Caseworkers from the Church help individuals in Douglas County navigate TANF to obtain these needed funds.

108. The Church also partnered with Douglas County using the TANF program to serve full-course dinners to families. This extended beyond TANF families, to include the elderly and anyone who needed a meal. From July 2017 to February 2020, the Church provided over 60,000 full-course hot meals in their facility to those in need. This program was halted due to the COVID-19 pandemic.

109. The TANF program provides funds to Douglas County residents with one or more children living at home and who have a household income of less than \$75,000 per year.

110. The TANF funds can be used for rent, mortgage, utilities, auto repair, or insurance.



111. Caseworkers from the Church help individuals in Douglas County navigate TANF to obtain these needed funds.

112. The Church also partners with schools in Douglas County to serve as a site for schoolchildren and families to convene and reunify following emergencies requiring school evacuations, such as in the case of school shootings.

113. Douglas County also provides various financial grants to the Church to provide other kinds of aid to needy individuals, with the Church often spending its own additional resources to cover any gaps in the grants.

114. Finally, the Church and its leadership actively work with Douglas County in the Church's ministry to provide temporary shelter for individuals experiencing homelessness in its surrounding community, including by serving on the Douglas County Homeless Initiative Executive Committee and partnering with the County's Homeless Engagement, Assistance and Resource Team (the "HEART Team").

115. For example, on one occasion, a Douglas County representative of the HEART Team called the Church regarding a Mr. Fred Krueger, a 61-year-old man who was going to be homeless that night and had nowhere else to go. The representative explained that he was hoping to obtain a hotel voucher from the Church for Mr. Krueger. The Church provided Mr. Krueger with such a voucher and then provided him temporary shelter through its On-Site Temporary Shelter Ministry, as explained below.

**F. Compassion Care Program**

116. The Church also has a Compassion Care Program in which it provides financial assistance to struggling families.

117. The first reference to the Compassion ministry at the Church began with Christmas Eve donations in the mid-1990s that went to struggling families' needs, utilities, and other living expenses.

**III. The Church Also Carries Out Its On-Site Temporary Shelter Ministry and its Red Cross Partnership To Provide Temporary Shelter To Needy Individuals, Because Of Its Religious Faith/Mission**

118. As especially relevant to this case, The Church also carries out two additional ministries that provide temporary shelter to needy individuals—the Church's On-Site Temporary Shelter Ministry and its Red Cross Partnership—again because of its religious faith and religious mission.

119. That is, as with the Church's many other ministries, the Church operates its On-Site Temporary Shelter Ministry and its Red Cross Partnership as direct result of its Christian faith and the Church's mission to "Pursue God, Embrace People, and Transform Society through Real Family." The Church also seeks to serve "the least of these," *Matthew 25:40*, and "to share [ ] food with the hungry and to provide the poor wanderer with shelter," *Isaiah 58:7*, because "faith by itself, if it is not accompanied by action, is dead," *James 2:17*.

120. In other words, these two ministries from the Church are how the Church fulfills the Christian commandment to care for the downtrodden and forsaken

because by serving others out of love the Church is welcomed into the Kingdom of God.

**A. Through Its On-Site Temporary Shelter Ministry The Church Provides Temporary Housing On Its Property To Individuals Experiencing Homelessness**

*General Overview of this Ministry*

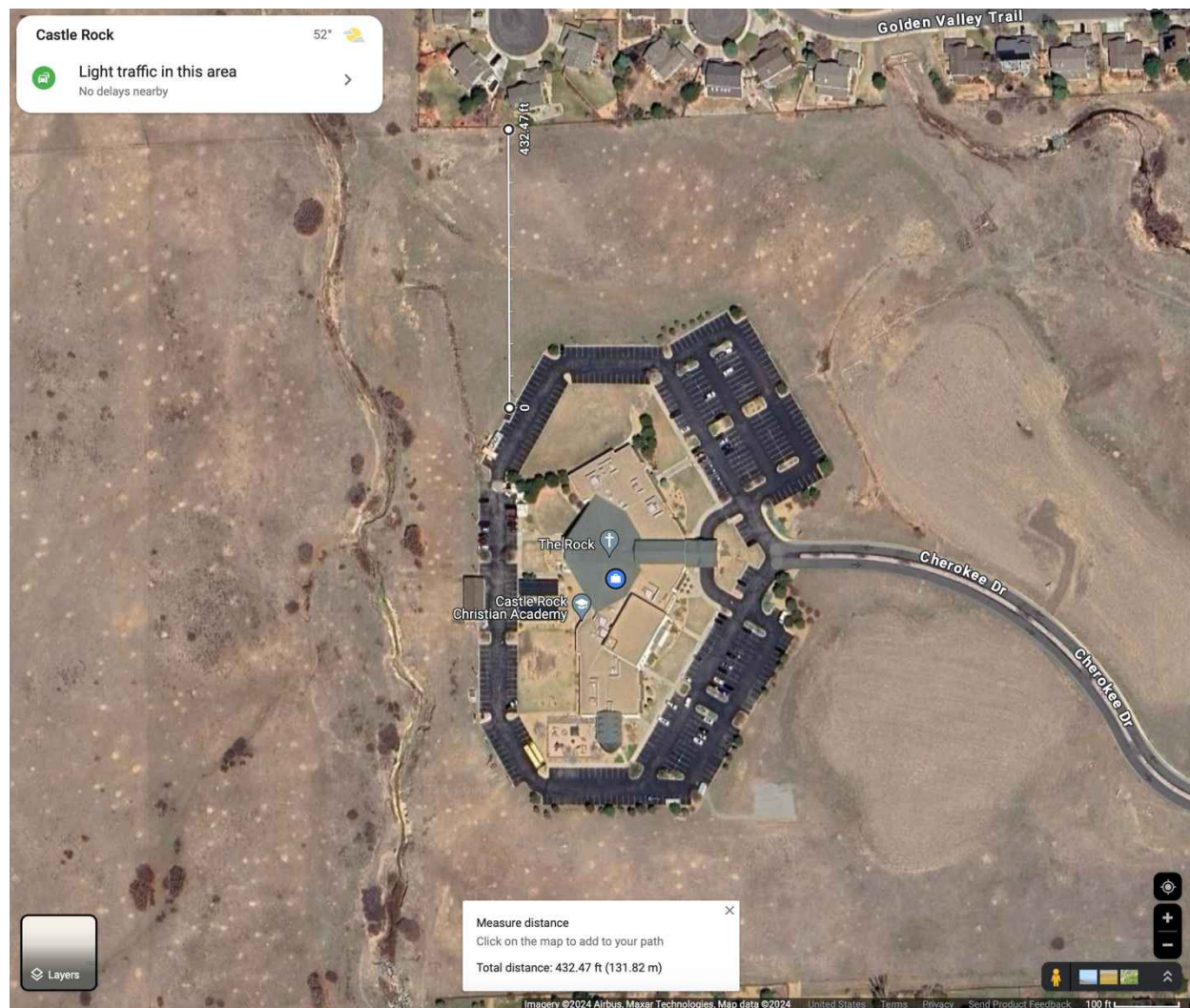
121. The Church operates a ministry of providing directly to individuals and small families experiencing homelessness temporary shelter in parked RVs/trailers on the Church's Property ("On-Site Temporary Shelter Ministry").

122. The Church's overall purpose with this ministry is to provide individuals and small families experiencing homelessness with a safe, temporary shelter— together with food, clothing, other material necessities, connection with additional resources, as well as access to religious and community offerings—so that they may get back on their feet and obtain or reobtain a sustainable level of self-sufficiency, including by finding stable employment and a stable place to live.

*The Location And Description Of The Church's Trailers and RVs*

123. The Church currently uses two temporary shelters—a standard, well-maintained RV and a standard, well-maintained camping trailer—as part of its On-Site Temporary Shelter Ministry.

124. The Church keeps the temporary shelters parked on the western edge of the Church's parking lot which surrounds the main church building, over 400 feet away from the Meadows neighborhood, as shown in Exhibit 25.



125. Out of the approximately 50 to 60 homes in the Meadows that surround the Church’s Property, only approximately five homes within 1,000 feet of the RVs/trailers potentially provide a view of the RV or trailer—and, even then, of these five homes, most can only see the roofs of the parked shelters, and only when looking out of a window on a second or third story of these homes.

126. Pictures of these RVs/trailers are shown below and are attached as Exhibit 13.



127. The Church has owned the red trailer pictured above since 2010 and has continuously kept it on its Property since that time. Before beginning to use the trailer in 2018 as part of its ministry to temporarily shelter needy individuals and families, the Church used this trailer for various church-related purposes, including handing out concessions during Church events. Additional pictures of this trailer are shown below and are attached as Exhibit 14.





128. The Church acquired the white RV shown in a picture below in 2018 via a donation from a member of the Church. The Church has used this RV as part of its ministry to temporarily shelter needy individuals and families since that time. Additional pictures of this RV are shown below and are attached as Exhibit 15.



129. The parked RV and trailer are equipped with electricity and there is a portable toilet near the vehicles in the Church's parking lot for the On-Site Temporary Shelter Ministry.

*How The Church Locates The Individuals And Small Families Whom The Church May Help With The On-Site Temporary Shelter Ministry*

130. The Church locates and receives individuals and small families who would benefit from the On-Site Temporary Shelter Ministry from several sources, including referrals from church and community members, direct contact from individuals seeking aid from the Church, and from governmental and local referrals.

131. That said, most of the individuals and families who the Church has through the On-Site Temporary Shelter Ministry are referred to the Church by Douglas County, via members of Douglas County's HEART Team or its Department of Human Services.

132. Indeed, Douglas County has helped to facilitate and support the Church's On-Site Temporary Shelter Ministry more broadly, including by referring individuals to the Church, as noted. For example, and as already discussed above, the Douglas County HEART Team referred Mr. Fred Krueger to the Church, and the Church ultimately agreed to temporarily shelter Mr. Krueger in a RV/trailer as part of the On-Site Temporary Shelter Ministry.

133. Other individuals have located the Church and received aid through the On-Site Temporary Shelter Ministry simply by searching for and contacting the Church on their own initiative. For example, Mr. Joseph Ridenour, whose experience is described below, found the Church by searching online and finding the Church's website. He then began attending the Church for religious reasons, after which the Church leadership discovered he was homeless and offered him temporary shelter.

*The Church Has Multiple Policies In Place To Ensure Its On-Site Temporary Shelter Ministry Is Successful And Safely Administered*

134. The Church has multiple policies and practices in place to manage, administer, and operate this ministry in a safe and efficient manner.

135. The Church scrupulously ensures only those suitable for the On-Site Temporary Shelter Ministry utilize it.

136. The Church uses a third-party company to conduct a formal background check on the individual or family the Church identifies as suitable for the On-Site Temporary Shelter Ministry, which the potential beneficiary or beneficiaries must pass to participate in the program.

137. Individuals who pass the background check are then interviewed and if accepted into the program, they must then sign a contract with the Church which sets forth requirements that the individual must adhere to while staying in one of the parked shelters, including peaceful and non-criminal behavior. *See, e.g.*, Ex.16.

138. The Church revisits the contracts on a week-by-week basis, inspects each vehicle, and re-evaluates the contracts to set goals and requirements specific to the beneficiary.

139. While the goals in each contract are specific to each individual's unique situation, the contracts typically require the individual to take measurable steps toward obtaining or reobtaining self-sufficiency such as submitting job applications, obtaining/maintaining employment, and searching for/securing housing.

140. Each contract also contains standard restrictions and expectations for the beneficiary of the ministry, such as prohibiting: the individual's use of drugs or



alcohol; firearms or any weapons on the property; the keeping of pets; the hosting of guests; and the playing of loud music.

141. Each individual taking part in the ministry is typically expected to utilize their assigned parked RV/trailer only during the hours of 7:00 p.m.–7:00 a.m. each day, as the individual is generally expected to be working or looking for work/housing at other times of the day.

142. Each contract provides that the Church may inspect the parked RVs/trailers at any time and for any reason, and the Church maintains a practice of inspecting each inhabited parked RV/trailer once every week while in use.

143. Each contract also provides that the individual may be required to leave the Church's temporary shelter program and vacate the parked RV/trailer if the individual does not adhere to the contract's requirements and expectations.

144. The Church has required individuals to leave the program for failing to meet these standards in the past.

145. While individuals are welcome to attend Church services and programs while staying in one of the parked RVs/trailers, the Church does not require individuals participating in this ministry to take part in any religious services or programs.

146. Further, the Church does not require anyone benefitting from this ministry to be (or pledge to be) a member of the Church's religious faith or of any religious faith.

147. The Church has never experienced any safety or other related issues while carrying out this ministry.

*Since On-Site Temporary Shelter Ministry's Inception In 2018, The Church Has Aided Many Families/Individuals*

148. Since the On-Site Temporary Shelter Ministry's inception in 2018, the Church has helped many individuals and small families as part of this ministry.

149. The length of time each individual or family has stayed in the Church's parked shelters has varied according to their unique needs and circumstances, and there have been periods of time when neither parked shelter was occupied.

150. In every case, the ministry has delivered absolutely essential aid to the participating individuals and families, and its impact on their lives has been significant.

151. For example, Fred Krueger was provided temporary shelter from approximately December 2022 to April 2023, after he lost his insurance sales job during the COVID-19 pandemic and had no place to stay.

152. Mr. Krueger stayed in the Church's temporary shelter as part of the program until he acquired financial stability and was able to lease an apartment.

153. Without the Church's ministry, Mr. Krueger would have remained homeless and on the streets.

154. The Church's On-Site Temporary Shelter Ministry also helped another beneficiary, Joseph Ridenour, escape a 24-year long methamphetamine addiction, break his cycle of homelessness, and secure gainful employment and permanent housing.

155. The Church provided temporary shelter from January 2021 to approximately April 2022 and from August 2023 to approximately October 2023 to Mr. Ridenour as part of this ministry.

156. Mr. Ridenour was at rock bottom and, without the Church's ministry, he would have returned to his former city and almost certainly succumbed once again to his former drug addiction.

157. Today, Mr. Ridenour is employed by Douglas County as the maintenance facilities technician for the County's fairgrounds, rents his own apartment, and is saving to purchase a home.

158. The Church's On-Site Temporary Shelter Ministry also helped another individual, Steve Pebley, while he recovered from alcohol addiction.

159. The Church provided Mr. Pebley temporary shelter for approximately three weeks as part of this ministry in August and September of 2022.

160. As a result of his alcohol addiction, Mr. Pebley had lost his home and his car and was living and sleeping anywhere that he could find.

161. After his stay in the temporary shelter, Mr. Pebley voluntarily checked into a rehabilitation facility outside of Castle Rock, having concluded that he needed more professional assistance to cope with his alcoholism.

162. The Church also provided temporary shelter to Taylor Price and her three-year-old son for approximately a three-week period during late-July and early-August 2022 as part of the On-Site Temporary Shelter Ministry.

163. Immediately prior to the Church inviting Ms. Price and her son to obtain temporary shelter in one of the Church's RVs/trailers, they were on the verge of being homeless, and had nowhere else to go.

164. Among other things, the Church provided Ms. Price and her son with a vehicle, clothes, and household items from its Blessing Room, food from its Food Bank, and access to bathrooms and membership at a local gym that provided shower facilities, while also giving Ms. Price access to a computer and connections with Douglas County work programs to find employment.

165. After this three-week period, the Church was able to help Ms. Price find a room to rent in a Church member's house for herself and her son, as well as help find Ms. Price stable employment.

166. Ms. Price now rents her own apartment for herself and her son, while maintaining stable employment to support herself and her son.

167. The Church also provided temporary shelter to Chad Calvert over a few weeks in 2018 and 2019 as part of the On-Site Temporary Shelter Ministry.

168. Mr. Calvert had lost his job and was without a home.

169. The Church provided Mr. Calvert with temporary shelter, food, and basic financial assistance, such as gas money.

170. Because Mr. Calvert was able to find a new job quickly, he only needed to participate in the Church's On-Site Temporary Shelter Ministry for a few weeks.

*Since Its Inception, The Church's On-Site Temporary Shelter Ministry Has Caused No Safety Issues Or Other Concerns*

171. Since the Church started its On-Site Temporary Shelter Ministry, the Church is not aware of any of the individuals or small families benefitting from this ministry being involved in a single incident raising public-safety concerns while they were part of this ministry.

172. Specifically, the Church is not aware of any reported or suspected criminal activity or other activity raising public-safety concerns involving the individuals or small families that have participated in On-Site Temporary Shelter Ministry and is not aware of any reported or suspected incidents of burglary, theft, vandalism, property damage, or illegal drug use involving the individuals or small families participating in the On-Site Temporary Shelter Ministry.

173. So, by all accounts, the Church's On-Site Temporary Shelter Ministry has safely provided temporary shelter to individuals and small families experiencing homelessness and successfully transitioned these individuals and small families into more permanent housing and financial situations, without adversely impacting the public safety of the surrounding community in any way

**B. The Church Also Periodically Hosts The Red Cross To Provide Temporary Shelter On The Church's Property To Needy Individuals During Times Of Emergency**

174. The Church has also entered into a partnership with the Red Cross, as a ministry, where the Church provides shelter in its main Church building for needy individuals in times of emergency, such as during or after a severe winter storm or fire.

175. The Church's partnership with the Red Cross began around 2021 as a three-way partnership with the Douglas County Sheriff, the Church, and the Red Cross.

176. The Red Cross initiated this partnership with the Church by inquiring whether the Church would be willing to serve as a Red Cross emergency site.

177. Church staff then met with the Red Cross, and the Red Cross then held onsite trainings of Church parishioners, staff, and volunteers to conduct Red Cross operations in the event of an emergency requiring sheltering.

178. The operation of the partnership between the Church and the Red Cross depends upon the size of the emergency that the Red Cross is responding to in Castle Rock or Douglas County.

179. For emergencies with a more limited scope, the Church takes on more of a leadership role in the partnership.

180. In emergencies with a more limited scope, the Red Cross will assist with the relocation of needy individuals to the main Church building for purposes of receiving temporary shelter, and then Church staff and volunteers will primarily manage the relief efforts from the main church building, using resources from both the Red Cross and the Church itself.

181. For example, in 2022 there was a major blizzard before Christmas in Castle Rock, and Douglas County—in connection with the Red Cross—sent needy individuals to the Church for shelter while the blizzard was ongoing.

182. To serve those needy individuals during the blizzard, the Red Cross provided forty cots in the main Church building, and Church staff and volunteers coordinated shelter efforts and served meals.

183. Additionally, Douglas County provided sheriff deputies to ensure security on the Property during the 2022 blizzard; only the staff and volunteers from the Church and the sheriff deputies remained onsite with the needy individuals overnight.

184. If there was a major emergency, such as a widespread fire causing major loss of homes in Castle Rock, the Red Cross would plan to take on more of a leadership role in the partnership.

185. Under such major emergencies, the Church anticipates that the Red Cross would take over the entire main Church Building and manage the relief efforts, with Church staff and volunteers providing assistance under the direction of the Red Cross.

186. The Church anticipates that it could temporarily shelter hundreds of needy individuals, if needed, during a major emergency.

187. Thankfully, Castle Rock has not experienced an emergency of this magnitude, thus the Church and the Red Cross have not yet had to implement these particular emergency plans.

188. As with the Church's other ministries, the Church operates the Red Cross Partnership because of its religious beliefs.

189. Specifically, the Church’s Red Cross Partnership is how the Church “provide[s] the poor wanderer with shelter,” *Isaiah* 58:7; how the Church helps those who are “poor and [who] are unable to support themselves . . . so they can continue to live among you,” *Leviticus* 25:35–36; and how the Church is “generous to the poor,” *Luke* 11:41.

**IV. The Town Issues A Notice of Zoning Violation To The Church Claiming That The Church’s On-Site Temporary Shelter Ministry Violate The Town’s Zoning Ordinances**

190. On November 10, 2021, Tammy King, the Zoning Manager of the Town of Castle Rock (hereinafter “Zoning Manager”) sent the Church a “Notice of Zoning Violation” regarding the presence of the parked RV/trailer on the back lot of the Church’s Property that the Church uses for its On-Site Temporary Shelter Ministry, attached here as Exhibit 17.

191. This letter alleged that the Church violated the Town’s Zoning Code. *Id.*

192. The Church was caught unaware because it thought that its temporary shelter ministry was compliant with the existing PD Regulations.

193. After the Church received the November 10, 2021 Notice of Zoning Violation and a follow up email on December 6, 2021, Pastor Mike was told to disregard the violation notice and that this issue was resolved. Then on April 6, 2022, the Town Zoning Manager requested a meeting with the Church. Pastor Mike and Church leadership met with the Town Manager and Zoning Manager to discuss the Church’s On-Site Temporary Shelter Ministry.



194. During this discussion, Pastor Mike explained the Church's view that its On-Site Temporary Shelter Ministry was an inexpensive and effective way to provide much-needed shelter to these needy individuals and small families.

195. Pastor Mike further explained the Church had prepared its Property to handle an additional five RVs/trailers, amounting to seven total trailers and/or RVs.

196. The Town Manager, with the Zoning Manager in attendance, then agreed that the Town's objections to the Church's ministry would be considered resolved if the Church agreed to limit the RVs/trailers in use to two.

197. Acting as a representative of the Church, Pastor Mike agreed to this limitation.

198. On September 26, 2022, the Zoning Manager sent the Church a letter, stating that "[a]s previously discussed, RV's parking on the property for either storage or use to live in, is not an allowed use on the property under the current zoning." Ex.18.

199. Following this September 2022 letter, Pastor Mike advised the Zoning Manager that the parked RVs/trailers on the Church's Property were not being used for storage but were being used on a limited basis for the On-Site Temporary Shelter Ministry.

200. After the September 26, 2022 letter, the Church took no action and did not hear from the Town until November 9, 2022, when Castle Rock Town Attorney Michael Hyman informed the Church that residential use of the parked RVs/trailers

was not permitted under the PD Regulations, in contravention of the earlier agreement to allow two temporary shelter units at the Property. Ex.19.

**V. The Church Attempts To Resolve This Zoning Dispute With The Town Without Resort To Legal Process, But That Effort Fails**

201. On February 14 and March 9, 2023, staff from the Church met with Town officials, including the Town Manager, Town Attorney, and Zoning Manager, and continued to discuss the Town’s opposition to the Church’s ministry.

202. During those discussions, the Church reiterated that its use of the parked RVs/trailers on the Church’s private parking lot on its Property was permitted by the PD Regulations.

203. Further, the Church explained to the Town during these meetings that its use of the parked RVs/trailers in the On-Site Temporary Shelter Ministry was a protected use of the Property under the Religious Land Use and Institutional Persons Act, 42 U.S.C. § 2000cc-5(7) (“RLUIPA”).

**VI. The Town Of Castle Rock Formally Charges the Church With Zoning Violations**

204. On September 29, 2023, the Zoning Manager and Tara Vargish, the Castle Rock Director of Development Services, sent the Church a “Letter of Determination,” stating that a “parsonage” was the only accessory residential use permitted under the PD Regulations applicable to the Church, and that “RV’s parked onsite, that serve as a residence are not an allowed use.” Ex.20.

205. At no point during the Church’s meetings and negotiations with the Town did the Town even allege that the On-Site Temporary Shelter Ministry

endangered or harmed any person or property, or that that there was related crime or other public safety issues concerning the ministry.

**VII. The Church Challenges The Town’s Notice of Zoning Violation In the Town’s Board Of Adjustment, But The Board Of Adjustment Affirms The Letter Of Determination And Concludes That The Church’s On-Site Temporary Shelter Ministry Does Violate The Town’s Zoning Ordinances**

206. On October 13, 2023, the Church timely appealed the Zoning Manager’s Letter of Determination to Castle Rock’s Board of Adjustment.

207. In this appeal, the Church asserted that the On-Site Temporary Shelter Ministry is a proper religious use of the Property as permitted by PD Regulations because the ministry is an “accessory use” and a “related use.” Ex.21.

208. The Church also asserted that the religious use of its Property was permitted under RLUIPA because the On-Site Temporary Shelter Ministry is part of the Church’s exercise of its sincerely held Christian faith. *Id.*

209. On December 7, 2023, the Town submitted its “Town’s Memorandum in Support of Zoning Manager’s Determination” in response to the Church’s October 13, 2023 letter. Ex.22.

210. The Town argued that the Church was prevented from using the Property for temporary shelter in support of the Church’s ministries.

211. The Town also alleged that the PD Regulations prohibited the use of RVs/trailers for Church use and that such RVs/trailers did not meet the definition of “parsonage.”

212. The Town additionally claimed that the Church did not consider temporary shelters during the negotiations of the PD Regulations, that the RVs/Campers for temporary shelter did not constitute an “accessory use” for the Church, and that the Zoning Manager’s determination did not substantially burden the Church’s free exercise of religion or violate RLUIPA.

213. On the same day that the Town submitted its written response—December 7, 2023—the Board of Adjustment heard the Church’s appeal and the parties’ oral presentations.

214. At the conclusion of the appeal hearing, the Board of Adjustment approved the Town’s motion to affirm the Zoning Manager’s Letter of Determination. No written decision of its action was made by the Board of Adjustment. Bd. of Adjustment Meeting, Town of Castle Rock, at 2:04:20 – 2:08:25 (Dec. 7, 2023).<sup>6</sup>

**VIII. Prior To The Town Determination Letter To The Church, The Town Pressures Douglas County To Cease Partnering Or Coordinating With The Church To Provide An Emergency Response Program Wherein The Church Partners With The Red Cross**

215. As explained above, the Church has a partnership with the Red Cross, along with coordinated efforts from the Douglas County Sheriff’s Department, in which the Church provides shelter in its main church building for needy individuals in times of emergency, like a severe winter storm, extreme cold temperatures, or fire.

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<sup>6</sup> Available at <https://castlerock-co.granicus.com/player/clip/1668>. The Town Manager’s adverse determination led the Church to initially file a state court action, *Church of the Rock, Inc. v. Town of Castle Rock*, No.2024CV30004 (Colo. Dist. Ct., Douglas Cnty.), which will be dismissed due to this present federal lawsuit to restore its religious rights.

216. After the Church provided temporary shelter to needy individuals during the major blizzard in 2022 as part of this Red Cross Partnership, as described above, the Douglas County Sheriff's Department informed Pastor Mike around January 2023 that the Town had informed it to end this partnership, presumably because the Town concluded that it was a violation of the Town's zoning code for the Church to temporarily shelter needy individuals in its main church building.

**IX. After The Church Challenged The Town's Notice of Zoning Violation, The Town Retaliated Against The Church With Other Alleged Violations Of The Town's Code**

217. After the Church challenged the Town's Zoning Manager's Letter of Determination in the Board of Adjustment Appeal in December 2023, the Town retaliated against the Church.

218. The Zoning Manager took action to limit the Church's activities by attempting to shut down its onsite coffee bar.

219. In 2024, the Church decided to partner with Lost Coffee, a local Christian coffeeshop in downtown Castle Rock, to serve their coffee at the Property under the name "Lighthouse Coffee."

220. The Church planned to publicly open Lighthouse Coffee April 1, 2024, with operation hours of 6:00 a.m. to 6:00 p.m., six days a week, in order to serve individuals associated with the school on the Church's Property, as well as members of the surrounding community visiting the Church as an outreach program to the community.

221. On Sundays, the Church had planned to simply provide coffee during its services, as it had prior to April 2024.

222. Lost Coffee was to utilize the Church's existing coffee bar and common area to brew coffee at Lighthouse Coffee to serve, sell, and give away.

223. In separate letters dated April 2, 2024, addressed to Lost Coffee and the Church, Castle Rock's Zoning Manager, Tammy King, alleged that the Church's partnership with Lost Coffee amounted to a "pop-up" coffee bar in the Church that violated the Town's zoning code. Exs.23, 28.

224. The April 2, 2024, Letter states that an unnamed "resident[ ]" went into the Church, photographed the coffee bar, and then asked the Zoning Manager "to clarify if a coffee shop retail use is an allowed use[ ]" under the PD Regulations for the Church.

225. The Letter asserted that the "Pop-up" coffee bar constituted a "[r]etail use[ ]," which is not allowed at the Church's Property.

226. The Letter also claimed the Church was operating a business without a business license and that a business license "would not be approved for this location"; however, the Church has a business and sales tax license that expires 12/31/2025, which Pastor Mike understood to cover Lighthouse coffee.

227. The Town also stated, in the letter to Lost Coffee, that "[i]f Lost Coffee would like to serve coffee during service times to church members, and NOT in a retail capacity, a building and fire inspection are still needed," despite the Church serving coffee since 2006 without issue.

228. In the same April 2, 2024 letter, the Town threatened to revoke the business license of Lost Coffee's downtown location if Lost Coffee continued the Lighthouse Coffee partnership with the Church.

229. Scott Gaerte, the owner of Lost Coffee, informed Pastor Mike that he was ending his partnership with the Church because he was worried that Lost Coffee would lose its business license for its downtown location.

230. Additionally, Mr. Gaerte informed Pastor Mike that the Douglas County Health Department ("Health Department") had told Lost Coffee that the first inspection of Lighthouse Coffee was to be between 30 and 60 days after opening—where in fact the health inspection occurred on opening day, which was April 1, 2024.

231. Mr. Gaerte also informed Pastor Mike that since Lighthouse Coffee possesses a business license to operate a coffee shop, meaning that the Health Department should have abided by its initial schedule of inspection occurring 30 to 60 days after opening, and that Lost Coffee should not have been subject to an immediate health inspection.

232. The Church is not aware of any other church in Castle Rock receiving from the Town similar adverse treatment for serving coffee, although the practice of serving coffee is a wide-spread custom of churches in Castle Rock and elsewhere.

233. Indeed, after the Town threatened the Church and Lost Coffee, Pastor Mike met with approximately 12 other church leaders in the community, and they all expressed dismay at the Town's threatening actions toward Lighthouse Coffee and

feared that Castle Rock would pursue similar harmful actions towards their coffee operations at their churches.

234. Especially worrisome was the Town’s statement that a “new” building and fire inspection was required to serve coffee because an inspection for a church to serve coffee has not been required or utilized for any other churches in Castle Rock.

235. Additionally, the Church has also had a long-standing relationship with Douglas County Housing Partnership (“Housing Authority”).

236. Since July 2022, the Housing Authority had been working with the Church to consult and advocate for a low-income workforce housing project the Church is pursuing.

237. However, after the Church committed to appeal the Board of Adjustment’s adverse decision in order to continue to pursue its ability to provide its On-Site Temporary Shelter Ministry, the Housing Authority abruptly ended its relationship with the Church.

238. In a letter dated April 19, 2024, the Housing Authority explained that the current adversarial and legal nature between the Church and the Town impaired the Housing Authority’s ability to act as a neutral for its Board which includes the Town of Castle Rock. Ex.24.

**X. The Town Of Castle Rock’s Decisions Are Preventing The Church From Exercising Its Religion And, Simultaneously, Preventing Needy Individuals From Obtaining Temporary Shelter From The Church**

239. Since the Zoning Manager and Director of Development Services issued its adverse Letter of Determination—affirmed by the Board of Adjustment—against



the Church's On-Site Temporary Shelter Ministry, and since the Town has adversely affected the Church's Red Cross partnership, the Church has been unable to carry out these vital ministries.

240. Specifically, the Town's shutting down of these two ministries has prevented the Church from exercising its religious beliefs through these ministries to provide temporary shelter to the needy.

241. The Church was the only resource available in Douglas County that provided temporary shelter for individuals and small families experiencing homelessness and for individuals displaced due to emergency.

242. Without the Church's ministries, the County will now have to transport individuals and families experiencing homelessness to far-away shelters outside of the Castle Rock community—thus removing these individuals from their social supports, and likely requiring the splitting of families—or these individuals will simply be forced to go without this basic human necessity.

243. In other words, the Town's closure of these two ministries means that individuals and small families in Castle Rock in need of temporary shelter have nowhere to turn in Castle Rock.

244. Indeed, on one occasion, the Church had to turn away a mother with three small children—aged seven, four, and three—who were without shelter. Douglas County Human Services reached out to the Church to ask whether any of the Church's temporary shelters were available for the family and explained that, unless the mother and her children could obtain temporary shelter from the Church,

the County would be required to remove these children from the custody of the mother in order to find suitable shelter for them. But the Church was required to turn away the mother and her children. Similarly, on another occasion, the Church had to turn away a father and his son, who were likewise in need of temporary shelter.

245. The Church now brings this lawsuit, seeking to vindicate its federal constitutional rights under the Free Exercise Clause and the Establishment Clause, and its federal statutory rights under RLUIPA.

## CLAIMS FOR RELIEF

### COUNT I

#### 42 U.S.C. § 2000cc *et seq.*

#### **Violation Of The Religious Land Use And Institutionalized Persons Act— Substantial Burden On Religious Exercise By A Land Use Regulation That Does Not Further A Compelling Government Interest In The Least Restrictive Means**

246. The Church realleges all matters set forth above and incorporates them here by reference.

247. Under RLUIPA’s substantial-burden provision, a municipality like Castle Rock may not “impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of . . . a religious assembly or institution, unless the government demonstrates that” such imposition or implementation is both “(A) [ ] in furtherance of a compelling governmental interest; and (B) [ ] the least restrictive means of furthering that compelling governmental interest.” 42 U.S.C. § 2000cc(a)(1); *see generally id.* § 2000cc-5(4) (defining “the

government[s]” covered by RLUIPA to include a “municipality” and “official[s] of [such] an entity”).

248. RLUIPA defines “religious exercise” to include “[t]he use . . . of real property for the purpose of religious exercise,” *id.* § 2000cc-5(7)(B), and defines a covered “land use regulation” to include “a zoning . . . law, or the application of such a law, that limits or restricts a claimant’s use . . . of land,” *id.* § 2000cc-5(5).

249. Thus, RLUIPA establishes a strict scrutiny standard for a municipality’s implementation of land use regulations like a zoning ordinance that substantially burdens a religious institution’s use of its real property for purposes of religious exercise.

250. The Town of Castle Rock is a “government” covered by RLUIPA. *Id.* § 2000cc-5(4).

251. The Town’s PD Regulations are “land use regulation[s]” within RLUIPA, as they are “a zoning . . . law” that “limits or restricts” how the Church may “use” its “land,” *id.* § 2000cc-5(5).

252. The Church is a “religious assembly or institution” protected by RLUIPA, *id.* § 2000cc(a)(1), that is entitled to raise RLUIPA claims in court, *id.* § 2000cc-5(1), as it is an evangelical, non-denomination Christian Church.

253. Further, the Church’s On-Site Temporary Shelter Ministry and Red Cross Partnership also constitute its protected “religious exercise” under RLUIPA, *id.* § 2000cc(a)(1), as both involve the “use” of the Church’s “real property for the purpose of religious exercise,” *id.* § 2000cc-5(7)(B).

254. With both the On-Site Temporary Shelter Ministry and Red Cross Partnership, the Church is using its real property—either its trailer and RV on its parking lots, or its main Church building, respectively—to temporarily shelter needy individuals and small families specifically because of the Church’s sincerely held religious beliefs.

255. The Town’s imposition of its PD Regulations to end the Church’s On-Site Temporary Shelter Ministry and Red Cross Partnership here substantially burdens the Church’s religious exercise in violation of RLUIPA’s substantial-burden provisions because, with its PD Regulations, the Town has *prevented* the Church’s participation in conduct motivated by a sincerely held religious belief.

256. That is, according to the Town, its PD Regulations *completely prohibit* the Church from temporarily sheltering individuals and small families in its trailer and RV on its property under its On-Site Temporary Shelter Ministry, and from temporarily sheltering displaced individuals in its main Church building during emergencies with its Red Cross Partnership.

257. Such a *complete ban* by a government on a form of sincere religious expression plainly qualifies as “a substantial burden on [ ] religious exercise” under RLUIPA’s substantial-burden provision. 42 U.S.C. § 2000cc(a)(1).

258. Finally, each of the RLUIPA jurisdictional provisions are met:

259. The Town has imposed a substantial burden in a program or activity that receives Federal financial assistance.

260. The Town has imposed a substantial burden which affects commerce with foreign nations, among the several States, or with Indian tribes.

261. The Town has imposed a substantial burden through the implementation of a land use regulation or system of land use regulations, under which the Town makes, or has in place formal or informal procedures or practices that permit the Town to make, individualized assessments of the proposed uses for the property involved.

262. The Town has no lawful justification under RLUIPA for its prohibition on the Church's On-Site Temporary Shelter Ministry and Red Cross Partnership. Specifically, the Town's prohibition does not further a compelling interest in the least-restrictive means, *see* 42 U.S.C. § 2000cc(a)(1)(A)–(B), including because the Church has taken ample measures to ensure that use of the temporary shelters is safe by, for example, conducting formal background checks on the individuals or families the Church identifies as suitable for the On-Site Temporary Shelter Ministry, inspecting each shelter weekly, and prohibiting those using the temporary shelters from engaging in various disruptive behaviors.

263. For all these reasons, the Town's prohibition on the Church's On-Site Temporary Shelter Ministry and Red Cross Partnership violates the Religious Land Use and Institutionalized Person Act, 42 U.S.C. § 2000cc *et seq.*, by creating a substantial burden on the Church's religious exercise with the application of its land-use regulation in a manner that does not further a compelling government interest in the least-restrictive means.

**COUNT II**

**42 U.S.C. § 1983**

**Violation Of U.S. Constitutional Amendment I  
Free Exercise Clause – Substantial Burden On Free Exercise**

264. The Church realleges all matters set forth above and incorporates them here by reference.

265. The Free Exercise Clause of the First Amendment, incorporated against the States by the Fourteenth Amendment, mandates that “Congress shall make no law . . . prohibiting the free exercise” of religion. U.S. Const. amend. I.

266. Under the Supreme Court’s existing Free Exercise Clause doctrine—beginning with the Supreme Court’s decision in *Employment Division, Department of Human Resources of Oregon v. Smith*, 494 U.S. 872 (1990)—the Supreme Court has held that a law that burdens the free exercise of religion is subject to strict scrutiny, except if the law is *both* neutral and generally applicable.

267. If a law is neutral and generally applicable, then courts review that law for compliance with the Free Exercise Clause under rational basis review.

268. To be neutral, a law’s object must be something other than the infringement or restriction of religious practices. Thus, the government fails to act neutrally when it proceeds in a manner intolerant of religious beliefs or restricts practices because of their religious nature.

269. To be generally applicable, a law must not prohibit religious conduct while permitting secular conduct that undermines the government’s asserted interests in a similar way. Moreover, a law is not generally applicable if it invites the

government to consider the particular reasons for a person’s conduct by providing “a mechanism for individualized exemptions.” *Id.* at 884 (citation omitted). Where such a system of individual exemptions exists, the government may not refuse to extend that system to cases of religious hardship without compelling reason. Accordingly, subjective assessment systems that invite consideration of the particular circumstances behind an applicant’s actions trigger strict scrutiny.

270. The Town’s PD Regulations trigger strict scrutiny even under existing Supreme Court doctrine, as the Town’s PD Regulations are not generally applicable.

271. The Town’s PD Regulations also trigger strict scrutiny if the Supreme Court partially overrules *Smith*, 494 U.S. 872, and applies strict scrutiny as to neutral laws of general applicability that substantially burden a church’s use of its property to care for the poor—an argument that the Church expressly preserves here.

272. The PD Regulations establish specific Planned Development Zoning Regulations separate from the Town’s *general* zoning code that apply to the Church alone and govern land uses only on the Church’s property. Ex.26.

273. The Town’s application of those Regulations, therefore, does not constitute the enforcement of a generally applicable zoning code that applies to properties elsewhere in Castle Rock.

274. Thus, the challenged PD Regulations are not generally applicable under the Free Exercise Clause.

275. Moreover, the system through which the Church would seek an exemption to the PD Regulations further shows that they are not generally

applicable, as this system invites consideration of the particular circumstances behind the Church's actions.

276. To pursue a change to its zoning, the Church needs to submit a formal application to the Town, which application would then be evaluated for compliance with the Town's Comprehensive Master Plan and compatibility with adjoining properties.

277. Then, the Town's Planning Commission would hold a public hearing and "provide a recommendation to Town Council," which holds its own public hearing to determine "whether the application meets Code requirements." Town of Castle Rock, *FAQ: Is it true that The Rock church is considering building low-income housing in The Meadows?* (Nov. 3, 2023).<sup>7</sup>

278. Each of the Court's factors weigh in favor overruling *Smith* as it applies to neutral and generally applicable laws that substantially burden a church's use of its property to care for the poor, because the decision plainly failed to respect the Supreme Court's precedents, was mistaken as a matter of the Constitution's original public meaning, and has proven unworkable in practice, with subsequent developments only serving to further weaken its already flimsy reasoning.

279. Here, the Town's application of its PD Regulations to bar the Church's two ministries providing temporary shelter to the poor violate the Free Exercise Clause under any applicable level of scrutiny, even the lower-level scrutiny that

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<sup>7</sup> Available at <https://www.crgov.com/FAQ.aspx?QID=1006>.



applies to neutral laws of general applicability under existing Supreme Court precedent.

280. The Town can have no plausible reason for applying its PD Regulations to totally bar the Church's On-Site Temporary Shelter Minister and Red Cross Partnership. Both of these ministries provide essential care to needy individuals and families suffering from homelessness or from displacement during an emergency in Castle Rock.

281. Further, these essential services are found nowhere else in the community, which only underscores the irrationality of the Town blocking these ministries here.

282. Finally, the Town could not possibly claim that prohibiting the Church's On-Site Temporary Shelter Ministry or Red Cross Partnership furthers any legitimate interest in the health, safety, or welfare of Castle Rock. On the contrary, both of the Church's ministries manifestly further the health, safety, and welfare of Castle Rock by providing safe, dignified, temporary shelter for needy individuals in the community.

283. For all these reasons, the Town's prohibition on the Church's On-Site Temporary Shelter Ministry and Red Cross Partnership violates the Free Exercise Clause of the First Amendment of the Constitution by imposing a substantial burden on the Church's free exercise of religion without any lawful justification.

### COUNT III

#### 42 U.S.C. § 1983

#### **Violation of U.S. Constitutional Amendment I Free Exercise - Retaliation For Exercising Constitutionally Protected Right**

284. The Church realleges all matters set forth above and incorporates them here by reference.

285. The Constitution prohibits the government from retaliating against individuals for exercising their constitutional rights. Specifically, the First Amendment prohibits government officials from subjecting an individual to retaliatory actions for speaking out against government action, and prohibits a government entity from seeking to punish an individual for engaging in actions protected by the Free Exercise and Free Speech Clauses of the First Amendment.

286. To make out a First Amendment retaliation claim for speech or the exercise of religion, the plaintiff must show that (a) he or she was engaged in constitutionally protected activity; (b) the defendant's actions caused the plaintiff to suffer an injury that would chill a person of ordinary firmness from continuing to engage in that activity; and (c) the defendant's adverse action was substantially motivated as a response to the plaintiff's exercise of constitutionally protected conduct.

287. Relatedly, the right of citizens to petition the government for the redress of their grievances is among the most precious of the liberties safeguarded by the Bill of rights. Thus, government officials are prohibited from wielding the powers of their office as weapons against those who question their decisions and may not retaliate

against individuals for exercising their constitutional right to file lawsuits and administrative appeals challenging governmental actions.

288. Here, the Town's adverse actions against the Church after the Church's appeal of the Town Manager's Letter of Determination constitute unconstitutional retaliation.

289. *First*, the Church has engaged in constitutionally protected, First Amendment activity—namely its exercise of its religion through the On-Site Temporary Shelter Ministry and its Red Cross Partnership, as well as its administrative appeal to the Board of Adjustment challenging the Town's Letter Determination regarding its On-Site Temporary Shelter Ministry.

290. *Second*, the Town's adverse actions against the Church—its harassment of the Church's Lighthouse Coffee operations on the Church's Property, as well as its persuading the Housing Authority to cease cooperating with the Church on a proposed development—would chill a person of ordinary firmness from engaging in similar First Amendment protected activity as the Church here.

291. That is, the Town's swift, repeated, and adverse actions against the Church puts anyone on notice that, if he carries out a religious ministry that the Town condemns or dares to appeal the Town's zoning decisions, the Town will look to punish that individual in various respects. Any person of ordinary firmness would thus sensibly conclude that he ought not continue to engage in the activities that the Town disfavors, despite their constitutionally protected status.

292. *Third*, the Town's adverse actions against the Church could only possibly be substantially motivated as a response to the Church's constitutionally protected conduct.

293. The timing of the Town's adverse actions against the Church's Lighthouse Coffee operations—coming right on the heels of the Church's appeal of the Town's zoning determination—indicates that the Town sought to retaliate against the Church for taking that appeal.

294. That is especially true given that the Church has served coffee from its main Church building since 2006, has a business and tax license that it understood to allow it to serve and sell coffee.

295. And churches serving coffee is common throughout Castle Rock (and, indeed, the Nation), yet the Town has apparently not taken any similar adverse actions against any other church.

296. Finally, in its letter terminating its relationship with the Church, the Housing Authority cited the Town's adversarial nature of its relationship with the Church—a clear indication of the causal link between the Town's adverse actions and the Church's constitutionally protected conduct here.

297. For all these reasons, the Town's adverse conduct toward the Church in retaliation for the Church engaging in its constitutionally protected right to the free exercise of its religion and to file lawsuits and administrative appeals challenging the Town's zoning decisions violates the First Amendment to the Constitution.

## COUNT IV

### 42 U.S.C. § 2000cc *et seq.*

#### **Violation Of The Religious Land Use And Institutionalized Persons Act— Substantial Burden On Religious Exercise, Treatment Of A Religious Assembly Or Institution On Less Than Equal Terms, And/Or Discrimination Against A Religious Assembly Or Institution With A Land Use Regulation**

298. The Church realleges all matters set forth above and incorporates them here by reference.

299. RLUIPA prohibits the taking of adverse actions against a person in retaliation for the person’s exercise of his religion, as protected by RLUIPA.

300. RLUIPA’s substantial-burden provision provides that a municipality may not “impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of . . . a religious assembly or institution, unless the government demonstrates that” such imposition or implementation satisfies strict scrutiny. 42 U.S.C. § 2000cc(a)(1).

301. Further, RLUIPA’s equal-terms provision provides that “[n]o government shall impose or implement 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.” *Id.* § 2000cc(b)(1).

302. And RLUIPA’s nondiscrimination provision provides “[n]o government shall impose or implement a land use regulation that discriminates against any assembly or institution on the basis of religion or religious denomination.” *Id.* § 2000cc(b)(2).

303. These three RLUIPA provisions prohibit the government from taking adverse action against a church because that church has engaged in religious exercise, as protected by RLUIPA itself.

304. Here, the Town violated these RLUIPA provisions by taking the numerous adverse actions against the Church in retaliation for the Church operating its On-Site Temporary Shelter Ministry and its Red Cross Partnership, as well as for taking legal action to redress the Town's unconstitutional prohibition of these ministries, which ministries the Town disapproves.

305. That is, the Town violated RLUIPA by using its zoning authority to abruptly shut down the Church's on-site coffee operation, threaten the local coffee business that the Church had partnered with, and pressure the County Housing Authority to end its partnership in a low-income housing project with the Church—all because the Church operated these two ministries and sought to defend its right to do so before courts and administrative bodies.

306. These adverse actions violate RLUIPA's substantial-terms provision, because they impose a substantial burden on the Church, without any adequate justification, by prohibiting the Church from carrying on its operations and ministries as usual. 42 U.S.C. § 2000cc(a)(1).

307. These adverse actions also violate RLUIPA's equal-terms provision by treating the Church on less-than-equal terms than nonreligious institutions, given the Town's abrupt departure the prior practice that had prevailed in the Town. *Id.* § 2000cc(b)(1).

308. And these adverse actions violate RLUIPA's nondiscrimination provision because they harm the Church on the basis of its Christian faith, given that the Town's motivating factor for these actions was its antipathy for the Church's religious mission to temporarily shelter the needy. *Id.* § 2000cc(b)(2).

## COUNT V

### 42 U.S.C. § 1983 Violation Of U.S. Constitutional Amendment I Establishment Clause

309. The Church realleges all matters set forth above and incorporates them here by reference.

310. The Establishment Clause of the First Amendment, made applicable to the States through the Fourteenth Amendment, restricts "law[s] respecting an establishment of religion." U.S. Const. amend. I.

311. As part of its restriction on the official establishment of religion, the Constitution necessarily prohibits states from meddling in the internal affairs of houses of worship. Whether the discrete issue is personnel and hiring matters, *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 140 S. Ct. 2049 (2020), disputes over church property, *Jones v. Wolf*, 443 U.S. 595 (1979), or policing the boundary between orthodoxy and heresy, *Watson v. Jones*, 80 U.S. (13 Wall.) 679 (1871), houses of worship are autonomous within their sphere.

312. Defendant's application of its zoning ordinances implicates the very core of a religious group's activities—worship and religious activities on church property. A church's authority over who may enter the sanctuary, under what

circumstances, and as to where on church property religious activities may take place lies at the very heart of “the general principle of church autonomy” protected by the Establishment Clause. *Our Lady of Guadalupe*, 140 S. Ct. at 2061.

313. Accordingly, absent a longstanding historical tradition of restrictions on churches to house and care for the homeless, the Town’s prohibition on the Church’s On-Site Temporary Shelter Ministry and Red Cross Partnership is plainly unconstitutional. *See Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 533–36 (2022) (instructing that “the Establishment Clause must be interpreted by reference to historical practices and understandings” and collecting cases (citation omitted)).

314. No history or tradition justifies the Town’s intrusion into the Church’s property to dictate which portions of the Church’s property may be used for religious purposes or how the church may go about accomplishing its religious mission. More generally, the Establishment Clause of the First Amendment, made applicable to the States through the Fourteenth Amendment, prohibits governmental hostility to religion.

315. The use of zoning ordinances in furtherance of a plan conceived in religious animus is the sort of “removal . . . [that] would be seen by many not as a neutral act but as the manifestation of ‘a hostility toward religion that has no place in our Establishment Clause traditions.’” *Am. Legion v. Am. Humanist Ass’n*, 588 U.S. 29, 38 (2019) (quoting *Van Orden v. Perry*, 545 U.S. 677, 704 (2005) (Breyer, J., concurring in judgment)).



316. Defendant's pretextual application of the Town's zoning ordinances due to their hostility to The Rock's religion constitutes hostility to religion in violation of the Establishment Clause. As a direct and proximate result of Defendant's conduct, the Church has suffered and will continue to suffer irreparable harm, including the loss of its constitutional rights, entitling it relief.

### **PRAYER FOR RELIEF**

WHEREFORE, the Church requests that the Court:

a. Declare that Defendant's actions against the Church and its On-Site Temporary Shelter Ministry and Red Cross Partnership violated the Church's protected "religious exercise" rights under RLUIPA, 42 U.S.C. § 2000cc(a)(1);

b. Declare that Defendant's actions against the Church and its On-Site Temporary Shelter Ministry and Red Cross Partnership violated the Church's protected "free exercise" of "religion" rights under the Free Exercise Clause, U.S. Const. amend. I;

c. Declare that the Defendant's application of its zoning ordinances constitutes hostility to religion in violation of the Establishment Clause, U.S. Const. amend. I;

d. Declare that Defendant's adverse actions following the Church's appeal of the Town Manager's Letter of Determination constituted unlawful retaliation for the Church's constitutionally and statutorily protected activity;

e. Issue preliminary and permanent injunctive relief prohibiting Defendant from infringing on the Church's protected religious exercise under RLUIPA and/or

the Free Exercise Clause, including the Church's operation of its On-Site Temporary Shelter Ministry and Red Cross Partnership;

f. Award nominal damages in the amount of \$1.00 against Defendant.

g. Award the Church reasonable attorney's fees and costs, including under 42 U.S.C. § 1988;

h. Award all such other relief as the Court may deem proper.

### **JURY DEMAND**

The Church demands a trial by jury of all issues so triable.

Dated: May 13, 2024.

Respectfully submitted,

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/s/ Misha Tseytlin

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 13, 2024, I sent a copy of the foregoing to be served on the following parties in the way described below each party's name:

Party's Name: Town of Castle Rock, Colorado

How Served: Personal service upon Jason Gray, in his official capacity as Mayor of Castle Rock, Colorado, and upon Lisa Anderson, in her official capacity as Town Clerk of Castle Rock, Colorado, pursuant to Colo. R. Civ. P. 4(e)(6).

Party Attorney's Name: (attorney not yet appeared)

Address:

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