

2. In the process of searching for property, the Church has learned that its ability to obtain property in the Village is substantially restricted on account of the Village's zoning ordinance that does not provide any place in the Village of Hazel Crest for it to meet freely *as of right*.

3. Instead, Village only allows churches and other religious assemblies in the three residential districts, and then only as a "special use." In order to establish a church in a residential district, the zoning ordinance subjects churches and other religious assemblies to an onerous, expensive, time consuming, and overly discretionary process in order to obtain a "Special Use Permit."

4. Furthermore, the Village zoning ordinance completely excludes churches from the Village's business, limited manufacturing, and all other non-residential districts, even as a "special use." This is particularly burdensome as the business districts in the Village contain the best properties for the Church's worship.

5. Such disparate treatment offends the United States Constitution's Equal Protection Clause as well as the "Equal Terms," "Unreasonable Limitations," "Total Exclusion," and "Substantial Burden" provisions of the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. 2000cc *et seq.* ("RLUIPA").

PARTIES

6. Plaintiff The Word Seed Church is an Illinois not-for-profit corporation founded in 2000.

7. Plaintiff Civil Liberties for Urban Believers is an unincorporated association of churches that exists to promote the religious liberty of urban churches and believers. “CLUB” members are frequently burdened by overly restrictive zoning codes such as the one described in this action. The Word Seed Church is a member of “CLUB.”

8. Defendant, Village of Hazel Crest, is a municipal corporation located in Cook County, Illinois.

9. Defendant, through its Village President and Trustees, is responsible for the enactment and enforcement of the ordinances and actions challenged herein.

JURISDICTION AND VENUE

10. This action arises under, *inter alia*, the Fourteenth Amendment to the Constitution of the United States and the Religious Land Use and Institutionalized Persons Act (“RLUIPA”) 42 U.S.C. § 2000cc., *et seq.*

11. This Court has jurisdiction over the subject matter of this action by virtue of U.S.C. § 1331 (federal question jurisdiction), 28 U.S.C. § 2201 (authorizing declaratory relief), and 28 U.S.C. § 2202 (authorizing injunctive relief).

12. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(e) and 1402(a) and 5 U.S.C. § 703.

BACKGROUND

13. The Church is a seven-member African-American congregation which has an annual income of \$17,000.

14. The Church currently has sufficient funds to purchase real property in the Village.

15. The Church was founded in 2000 in Harvey, Illinois, and for 12 years met at the home of the Church's previous pastor, Katherine Brownlee.

16. The Church is currently led by Pastor Keinon Washington who became the Church's pastor in 2018.

17. Around March 2012, the Church purchased property located at 15924 Western Avenue, Markham, IL 60428. The Church later purchased property next door in order to expand its operations and grow. Around April 2017, however, the City of Markham forced the Church to sell the property in order to use that land for business redevelopment.

18. Beginning in April 2017, the Church moved back to Pastor Brownlee's home in Harvey, IL. The Church met there until January 2018 when Pastor Brownlee passed away.

19. Since that time, the Church has been meeting in the home of Pastor Washington located in Markham, IL where it currently meets today.

20. The Church desires to be faithful to Christian Scripture in the conducting of religious exercises, all of which are compelled by and integral to the sincerely held religious beliefs of the Church and its members, including:

- a. weekly assembly of the congregation to worship (Hebrews 10:25);

- b. weekly preaching, including speech relating to personal morality, God, social, cultural and political issues (2 Timothy 4:2);
- c. pastoral counseling for the disturbed, lonely and bereaved (Acts 20:28);
- d. prayer meetings (Acts 1:13-14);
- e. singing and musical performances (Psalms 81:1-2);
- f. baptisms, weddings, and communion (Matthew 28:19; Luke 22:19);
- g. Bible studies (Psalm 110, 2 Tim. 3:16);
- h. service projects for members of the congregation, the poor, youth, and the general community (James 1:27);
- i. evangelism - sharing the Christian message and encouraging others to believe in Jesus the Messiah, particularly those who visit the church meetings (Matt. 28:16-20); and
- j. financial giving to support the Church and its ministries to the poor and to the members in need (Mal. 3:8-10).

21. The Church's ability to fully and effectively conduct religious exercise has been substantially hampered by not having a church property.

22. Conducting worship services at Pastor Washington's Markham home entails various challenges including:

- Inability to have full worship services including the use of instruments such as pianos and drums.
- Small and crowded space.
- Inability to offer ministries such as children's Sunday School or Bible classes (there is no place for children at all).

- Inability to attract new members which stunts church growth.
- Inability to meet at different times of the week.
- Inability to start new ministries.
- Intrusion by Church members into the personal space of Pastor Washington and his family.

23. In addition, the Church has been informed that without a building to worship, the State of Illinois will not reinstate the Church's sales tax exemption, causing the ministry to pay sales tax on any purchases it makes.

24. Moreover, Pastor Washington's home is currently on the market to be sold and there is great uncertainty about the future meeting place of the Church.

25. Pastor Washington's new residence in Orland Park does not have enough room for the current number of the Church's attendees to meet.

26. Because the Church's current meeting place is inadequate, the Church's burdens substantial, and the Pastor Washington's home in Markham is now on the market, the Church has begun searching for property to purchase.

27. The Church intends to purchase property in the Village of Hazel Crest or adjacent municipalities as property may become available for the Church to establish roots and grow as a congregation. The Village is an ideal place for the Church to purchase property since it contains properties within the Church's price range, its

proximity of the Church members' homes, and is a strategic location for the spread of the Gospel.

28. Nearly all of the properties in the Village that would be able to serve the Church's needs are in non-residential districts. For instance, the Church determined

that a property for sale at 1822 W. 170th Street, Hazel Crest, IL would be ideal for its use.

However, the property is located in "B-1" zone where churches and other religious assemblies are not permitted as of right or by special use.



1822 W. 170th Street, Hazel Crest, IL

THE VILLAGE'S ZONING REGULATIONS

29. The Village of Hazel Crest is divided into four (4) residential districts, one (1) "Special Planned Development" district, one (1) office, research and compatible use district, two (2) business districts, and one (1) limited manufacturing district. **Exhibits A and B.**

30. The Village's zoning ordinance specifies which uses are "permitted," "special use," or not permitted in each of the districts. **Exhibit A.**

31. According to the Village's zoning ordinance, "No church services may be conducted in any building designed for a business use." *Id.* at Section 8.1. There is no definition or further explanation in the zoning ordinance explaining when a building is "designed for a business use."

32. In zones where religious assemblies are neither permitted as of right or as special uses, the Village allows nonreligious assembly uses throughout its business (zones B-0, B-1, and B-2) and limited manufacturing (zone M-1) districts as of right or as a special use:

- Art Galleries: Permitted *as of right* in zone B-2.
- Meeting halls: Permitted *as of right* in zone B-2.
- Funeral parlors: Permitted *as of right* in zone B-2.
- Museums: Permitted *as a special use* in zone B-2.
- Recreational building and community centers: Permitted *as a special use* in zone B-2.
- Restaurants: Permitted *as of right* in zones B-1 and B-2.
- Taverns, and cocktail lounges: Permitted *as of right* in zone B-2.
- Public Libraries: Permitted *as a special use* in zone B-2.
- Schools and day care centers: Permitted *as a special use* in zone B-2.
- Adult mini-motion picture theater: Permitted *as a special use* in zone M-1.

33. Churches are allowed in only three districts which are residential in nature (R-1, R-2, and R-3 districts), but only as a “special use.”

34. Yet while requiring churches to obtain a “special use permit,” the Village freely allows nonreligious assembly uses as of right in its residential districts (zones R-0, R-1, R-2, and R-3):

- Municipal or other governmentally owned recreational buildings and community centers: Permitted *as of right* in R-0.
- Schools, nonboarding: Elementary, junior high, high or community college: Permitted *as of right* in zones R-1, R-2, and R-3.
- Libraries: Permitted *as of right* in zone R-3.

35. Furthermore, the residential districts in which churches are permitted as a “special use” are already substantially developed as residential neighborhoods, leaving very few properties available for churches to locate. **Exhibits B and C** demonstrate that each residential district in the Village is already substantially developed as a residential neighborhood.

36. In essence, by excluding churches in all but three residential districts, the Village zoning ordinance is completely excluding new churches from the Village altogether.

37. Furthermore, being a “special use” in the Village of Hazel Crest means being subjected to an onerous, time consuming, expensive, and overly discretionary application process before having the right to locate in the Village. Per the Village’s zoning ordinance a church must comply with 10 conditions:

“No special use shall be recommended by the planning and zoning commission, unless said commission shall find:

1. That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

2. That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. That the establishment of the special use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
4. That adequate utilities, access roads, drainage and/or other necessary utilities have been or are being provided.
5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
6. That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the village board pursuant to the recommendations of the planning and zoning commission.
7. Each adult use shall be a minimum of one thousand (1,000) feet from the property line of another adult use.
8. Each adult use shall be a minimum of one thousand (1,000) feet from any previously existing church, school, library, park or other publicly operated recreational facility.
9. All distances specified shall be measured by following a straight line, without regard to intervening structures, from the nearest point on the property line or zoning district boundary line from which the proposed use is to be separated to the nearest point of the property on which the proposed use is to be located.
10. No alcoholic beverages shall be sold, served or consumed within the premises of an adult use.”

Id.

38. The standards that church or other religious assembly uses are subjected to by the Village everywhere are vague and excessively discretionary. As an example, it is

unclear how any use can demonstrate that it is “*detrimental* to or *endanger* the public health, safety, morals, comfort or general welfare.” (Emphasis added). Such a determination is vague and based wholly on the unbridled discretion of zoning officials. Likewise, churches and other religious assemblies are tax exempt and may be viewed by municipalities as “detrimental” to the “general welfare” of the community, particularly from a municipality revenue standpoint.

39. In addition to the vague and unbridled discretion inherent in the standards, churches must expend substantial sums in successfully completing the process. Standard number 5, for example, would require the Church to hire experts to conduct traffic studies. Standard numbers 1, 2, 3, and 4 would require retaining engineers, architects, surveyors, or all of the above. Indeed, it is not uncommon for complete special use applications to cost tens of thousands of dollars with no guarantee of ever getting approved.

40. Given the amount of experts that may need to be retained, the reports and studies those experts need to draft and compile, and the amount of documents the Village would need to review, it is not uncommon for the special use application process to take between 6-12 months.

41. The timing and cost of completing a special use application alone would prevent most if not all small or new mosques, synagogues, or churches, from ever worshipping in the Village of Hazel Crest.

42. On top of the application process, churches and other religious assemblies seeking to purchase property in the Village need to negotiate zoning contingency clauses in their purchase contracts so that, in the event the Village denies their special use applications, they can terminate their purchase agreements. This presents yet another hurdle for churches and other religious assemblies as sellers often reject such contingencies because of the uncertainty and time consuming nature of special use applications. Sellers that do not outright reject such contingencies nonetheless may require buyers to pay substantially more for the benefit of having such contingencies.

43. The Village's zoning ordinance, therefore, treats churches and other religious assembly uses and nonreligious assembly uses disparately. By allowing churches only in three substantially developed residential districts and if a property happens to be found, subjecting churches to a burdensome special use process, the Village zoning ordinance amounts to a de facto prohibition of new and small church or other religious assembly uses in the Village. All the while, the Village allows similar nonreligious assembly uses widely throughout the Village.

COUNT I
VIOLATION OF RLUIPA, 42 U.S.C. 2000cc(b)(1)
EQUAL TERMS PROVISION

44. The allegations contained in all preceding paragraphs are incorporated here by reference.

45. Section 2(b)(1) of RLUIPA prohibits the Village from treating a religious assembly use less favorably than a non-religious assembly use:

(1) Equal Terms

No 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*. (italics added).

46. RLUIPA's legislative history provides a non-exhaustive list of certain nonreligious comparators for purposes of the "equal terms" analysis including "gyms, places of amusement, recreation centers, lodges, libraries, museums, municipal buildings, meeting halls, and theaters." H. REP. 106-219 at 19 (July 1, 1999).

47. By treating religious assembly uses on less than equal terms with nonreligious assembly uses, the Village's zoning ordinance, on its face, violates RLUIPA's equal terms provision.

WHEREFORE, the Church respectfully prays that the Court grant the relief set forth in the prayer for relief.

**COUNT II
EQUAL PROTECTION CLAUSE OF
THE FOURTEENTH AMENDMENT**

48. The allegations contained in all preceding paragraphs are incorporated here by reference.

49. The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution requires that the government treat similarly situated assembly uses equally. *Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 439 (1985).

50. The Church in this case is similarly situated with other assembly uses which, as explained above, the Village treats more favorably.

51. Because the Village does not treat similarly situated assembly uses equally, the Village violates the Equal Protection Clause of the Fourteenth Amendment.

WHEREFORE, the Church respectfully prays that the Court grant the relief set forth in the prayer for relief.

COUNT III
VIOLATION OF RLUIPA, 42 U.S.C. 2000cc(b)(3)(B)
UNREASONABLE LIMITATIONS PROVISION

52. The allegations contained in all preceding paragraphs are incorporated here by reference.

53. Section 2000cc (b)(3)(B) of RLUIPA provides:

No government shall impose or implement a land use regulation that –

(B) unreasonably limits religious assemblies, institutions, or structures within a jurisdiction.

54. The Village’s zoning ordinance excluding churches from all zoning districts other than three residential districts, and requiring churches to obtain onerous, time consuming, expensive, and overly discretionary “special use permits” in its residential districts, unreasonably limits religious assemblies within the Village’s jurisdiction.

55. Furthermore, the Village's zoning ordinance unreasonably limits churches and other religious assemblies within the Village's jurisdiction by excluding churches from all zoning districts other than three residential districts which are already substantially developed as residential units.

WHEREFORE, the Church respectfully prays that the Court grant the relief set forth in the prayer for relief.

COUNT IV
VIOLATION OF RLUIPA, 42 U.S.C. 2000cc(b)(3)(A)
TOTAL EXCLUSION PROVISION

56. The allegations contained in all preceding paragraphs are incorporated here by reference.

57. Section 2000cc (b)(3)(A) of RLUIPA provides:

No government shall impose or implement a land use regulation that –

(B) totally excludes religious assemblies from a jurisdiction.

58. The Village's zoning ordinance does not permit churches and religious institutions *as of right* in any of its zoning districts. By not permitting a church in a zoning district *as of right* in any of its district, the zoning ordinance totally excludes churches and other religious assemblies within the Village's jurisdiction. See *Hazel Wilson Hotel Corp. v. City of Chicago*, 17 Ill. App. 3d 415, 416 (1974).

WHEREFORE, the Church respectfully prays that the Court grant the relief set forth in the prayer for relief.

COUNT V
VIOLATION OF RLUIPA, 42 U.S.C. 2000cc.
SUBSTANTIAL BURDEN PROVISION

59. The allegations contained in all preceding paragraphs are incorporated here by reference.

60. Section 2000cc (a)(1) of RLUIPA provides (*italics added*):

(1) General rule.

No government shall impose or implement a land use regulation 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.

61. The Village has imposed, and continues to impose, a substantial burden on the Church.

62. The Church has great needs and very limited resources. See *World Outreach Conference Center v. City of Chicago*, 591 F.3d 531, 537-538 (“whether a given burden is substantial depends on its magnitude in relation to the needs and resources of the religious organization in question.”).

63. The Village imposes its land use regulations in a manner which creates undue delay, uncertainty, and expense upon the Church. See *World Outreach*, 949 F. Supp. 2d 826, *849; *see also World Outreach*, 591 F.3d 531, at 534, 537 citing *Sts. Constantine & Helen Greek Orthodox Church, Inc. v. City of New Berlin*, 396 F.3d 895, 901 (7th Cir. 2005).

64. The Village imposes these burdens on the Church in an arbitrary and capricious manner. See *World Outreach*, 797 F.3d 839, 842 (7th Cir. 2015); see also *Roman Catholic Bishop v. City of Springfield*, 724 F.3d 78, 96-97 (1st Cir. 2013).

65. The cumulative effect of the various burdens which the Village imposes on the Church is substantial. See *Roman Catholic Bishop*, 724 F.3d at 95 (“We recognize different types of burdens and that such burdens may cumulate to become substantial.”).

66. In addition, the unequal terms of the Village’s zoning ordinance on religious assemblies impose a substantial burden on the Church and its members.

67. The Church can prove a substantial burden on its religious exercise without “proving that there is an unconstitutional motivation behind a law...” 146 Cong. Rec. S6688 (daily ed. July 27, 2000) (statement of Sen. Orrin G. Hatch).

68. The Village cannot prove that its actions are supported by a compelling governmental interest or that they are the least restrictive means of furthering any governmental interest, let alone a compelling one.

WHEREFORE, the Church respectfully prays that the Court grant the relief set forth in the prayer for relief.

**COUNT VI
VAGUENESS/EXCESS DISRECTION**

69. The allegations contained in all preceding paragraphs are incorporated here by reference.

70. The special use standards described in paragraph 29 above are unconstitutionally vague.

71. The special use standards grant the Village unbridled discretion which permits the Village to unconstitutionally deny churches and other religious assemblies a place to locate in the Village.

WHEREFORE, the Church respectfully prays that the Court grant the relief set forth in the prayer for relief.

PRAYER FOR RELIEF

WHEREFORE, the Word Seed Church respectfully requests relief as follows:

A. Declare that the Village's zoning ordinance, and its implementation of the same, violates the Equal Terms, Unreasonable Limitations, Total Exclusion, and Substantial Burden provisions of the Religious Land Use & Institutionalized Persons Act, 42 U.S.C. 2000cc, *et. seq.* and the Equal Protection Clause of the Fourteenth Amendment on its face;

B. Declare that the Village's special use standards are unconstitutionally vague and grant unbridled discretion to Village officials;

C. Declare that Section 8.1 of the Village's zoning ordinance which prohibits church services "in any building designed for a business use" is invalid as excessively discretionary and a violation of Equal Terms provision of the Religious Land Use &

Institutionalized Persons Act, 42 U.S.C. 2000cc, *et. seq.* and the Equal Protection Clause of the Fourteenth Amendment;

D. Enjoin the Village from prohibiting the Church from freely locating anywhere in the Village where other nonreligious assemblies uses may freely locate including but not limited to zones R-0, R-1, R-2, R-3, B-1, and B-2.

E. Enjoin the Village from prohibiting the Church to locate as a special use where other nonreligious assemblies may locate as a special use including B-1, B-2, M-1, and R-0.

F. Award the Church its costs and expenses of this action, including reasonable attorneys' fees, pursuant to 42 U.S.C. § 1988, and other applicable law;

G. Grant such other relief as this Court deems appropriate.

Respectfully submitted this 28th day of December 2020.

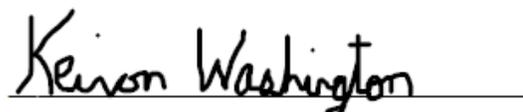
WORD SEED CHURCH, et al.

By: /s/ John W. Mauck
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VERIFICATION

Under penalties as provided by law, the undersigned certifies that the statements set forth in the "Verified Complaint for Declaratory and Injunctive Relief" are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.


Keinon Washington