

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO.
	)	
CITY OF LILBURN, GEORGIA,	)	
	)	
Defendant.	)	

**COMPLAINT**

The United States of America files this Complaint and alleges:

1. This is a civil action brought by the United States of America to enforce the Religious Land Use and Institutionalized Persons Act of 2000 (“RLUIPA”), 42 U.S.C. §§ 2000cc–2000cc-5, against the City of Lilburn, Georgia for its unlawful conduct in violation of RLUIPA.
2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. § 2000cc-2(f).
3. Venue is proper under 28 U.S.C. § 1391(b) because the actions giving rise to this action occurred in the Northern District of Georgia.
4. Defendant City of Lilburn (“City” or “Defendant”) is a municipal corporation of the State of Georgia. The City has the authority to regulate and restrict the use of land and structures within its borders, including

granting requests for rezonings and requests for Special Use Permits (“SUPs”).

5. The City is governed by a mayor and four City Council members. The City’s Department of Planning and Economic Development oversees the City’s building and development needs. The City’s Planning Commission is composed of five members.
6. The City’s requirements for rezonings and SUPs are set forth in Section 1700 et seq. of its Zoning Ordinance. Upon submission of an application for rezoning and/or SUP, the City Planner reviews the application for completeness and makes a written recommendation whether the application should be approved or denied by the City Council. This recommendation is presented to the Planning Commission, and the Commission votes whether to recommend approval or denial to the City Council. The City Council then considers the application and may take any of the following actions: (1) adopt the application as presented; (2) adopt the application as supplemented by conditions of approval; (3) deny the application in whole or in part; or (4) table the application.
7. For purposes of RLUIPA, the City constitutes a “government.” 42 U.S.C. §§ 2000cc-5(4)(A)(i), (ii).
8. The A.G.A. Islamic Organization, Inc. d/b/a Dar-E-Abbas Shia Islamic Center (“Islamic Center”) is a non-profit corporation organized and existing

under the laws of the State of Georgia. It currently conducts its worship and religious activities at a mosque located on 1.3 acres of C-1 zoned property at 5064 and 5074 Lawrenceville Highway in the City. “Mosque” is a general term for buildings used for worship by Muslims. Members of the Islamic Center also refer to their place of worship as an “Imambargah.”

9. The Islamic Center’s use of its property on Lawrenceville Highway constitutes “religious exercise,” under RLUIPA. 42 U.S.C. §§ 2000cc-5(7)(A)-(B).
10. The Islamic Center is a “religious assembly or institution,” as defined by RLUIPA. 42 U.S.C. § 2000cc(2)(b)(1).
11. Members of the Islamic Center are limited in their ability to exercise their religion in a number of ways by their current site. The Islamic Center needs a full time imam, and it believes an imam should live on site. The Islamic Center currently does not have a place for an imam to live. As a tenet of their religion, the Islamic Center members believe that during prayer, men and women should be in the presence of an imam on the same floor of the mosque, but the Islamic Center’s current mosque is too small to permit this. The Islamic Center’s current mosque has insufficient facilities for members to perform the “wudu” or ablution, which consists of washing hands, the head, and feet before prayer. The Islamic Center lacks a nursery, which impacts the ability of mothers and fathers to worship, and there is no place

for a mother to nurse her baby during a service. The Islamic Center lacks adequate parking, hindering people from attending services its current mosque.

12. To remedy these deficiencies, in September 2008, representatives of the Islamic Center met with City officials to discuss the Islamic Center's plans to purchase 2.2 acres of adjacent property along Lawrenceville Highway, which had a mixed zoning of C-1 and R-100. The purchase of this property would give the Islamic Center a total of 3.5 acres. The Islamic Center leaders stated that they intended to construct a larger mosque on the commercially zoned parts of the 3.5 acres.
13. On November 10, 2008, the City changed its Zoning Ordinance to require that a place of worship have a minimum of five acres of land in commercial districts C-1, C-2, and C-3. The imposition of this five-acre requirement made the Islamic Center's plans to expand on 3.5 acres of C-1 zoned land impossible. Prior to the change, there was no minimum acreage requirement for places of worship in commercial zoning districts.
14. In 2003, the City had previously raised the minimum acreage requirement from three acres to five acres in residential districts after it became aware that a Muslim group, different from the Islamic Center, wanted to construct a mosque on 4.4 acres of land zoned R-100. The imposition of this five-acre

requirement made it impossible for that Muslim group to build its mosque on the 4.4 acres of R-100 zoned land.

15. In September 2009, the Islamic Center submitted an application to rezone a 7.9-acre tract (the 1.3 acres that it owned, and 6.6 acres of adjacent land it had contracts to purchase), from R-100 and C-1 zones to the RA-200 zone, and for a SUP to construct a mosque, a gymnasium, and a cemetery.
16. Upon receiving the Islamic Center's application, the City Planner issued a report and recommendation that recommended conditional approval of the Islamic Center's application. The City Planner's report and recommendation stated that the Islamic Center submitted a reasonable plan, and it stated that the Islamic Center's request was consistent with the way many churches expand by purchasing adjoining properties.
17. On November 12, 2009, the Planning Commission unanimously recommended denial of the Islamic Center's application by a 4-0 vote.
18. On November 18, 2009, the City Council denied the Islamic Center's application by a 4-0 vote.
19. In October 2010, the Islamic Center revised its application and submitted it to the City. The Islamic Center's revised application sought to construct a one-story 20,000 square foot mosque with a basement on approximately four acres. The Islamic Center proposed that 5,000 square feet of the mosque

would be used as worship space, and that the remaining space would be used as offices, a community center, classrooms, and other accessory uses.

20. In or about November 2010, the City commissioned and obtained a traffic report that analyzed the impact of the Islamic Center's proposed mosque. The report concluded that the expansion of the mosque would have little impact on day-to-day traffic. The members of the City Council and the members of the Planning Commission were provided with this traffic report prior to their votes on the Islamic Center's revised application.
21. On or about December 6, 2010, the Planning Commission held a hearing on the Islamic Center's revised application and unanimously recommended that the City Council deny the application.
22. Seven days later, on December 13, 2010, the City Council held a hearing on the Islamic Center's revised application. At the hearing, the Council did not approve the application. The Council vote was 2-2, and therefore lacked the majority vote required to approve the application.
23. Between September 15, 2008, and the present, some City residents have communicated their hostility to the Islamic Center's plans for the mosque by making discriminatory comments to City officials, by sending letters and other communications to City officials expressing hostility to the Islamic Center, and by taking other actions displaying their hostility to the Islamic Center, on the basis of religion or religious denomination.

24. City officials directly involved in the Islamic Center's attempts to obtain rezoning and/or a SUP have made hostile remarks about Muslims and members of the Islamic Center.
25. The City was motivated to deny the Islamic Center's applications for rezoning and/or SUP to effectuate the desires expressed by City residents and City officials who were hostile to and had animus towards the Islamic Center and its members on the basis of religion or religious denomination.
26. The City has never turned down an application for rezoning and/or SUP submitted by a Christian Church.
27. The City has treated applications for rezoning and/or SUP submitted by Christian churches, including applications by the First Baptist Church of Lilburn, Northeast Community Church, Killian Baptist Church, Hawthorne Baptist Church, and Providence Christian Academy, better than it treated the Islamic Center's applications for rezoning and/or SUP. The City approved the applications for these churches, but denied the Islamic Center's application even though the churches' submitted applications were similar to the Islamic Center's applications.
28. At all times relevant, the City did not have in place procedures or practices to ensure City officials were able to satisfy their obligations under RLUIPA,

including but not limited to, providing RLUIPA training to City officials and staff involved in religious land use determinations, and having established procedures to address complaints concerning denials of rights under RLUIPA.

29. For purposes of RLUIPA, the City's denial of an application for rezoning and/or SUP constitutes the "application" of a "land use regulation" that "limits or restricts a claimant's use or development of land." 42 U.S.C. § 2000cc-5(5).

#### **COUNT I – DISCRIMINATION**

30. The allegations above are hereby incorporated by reference.
31. The City's different treatment and denial of the Islamic Center's original and revised applications for rezoning and/or SUP were because of discrimination on the basis of religion or religious denomination, in violation of RLUIPA, 42 U.S.C. § 2000cc(b)(2).
32. The City's discriminatory actions were willful, intentional, and taken in disregard of the rights of the Islamic Center and its members.

#### **COUNT II – SUBSTANTIAL BURDEN**

33. The allegations above are hereby incorporated by reference.
34. The City's treatment and denial of the Islamic Center's original and revised applications for rezoning and/or SUP constitute the imposition or implementation of a land use regulation that imposes a substantial burden on

the religious exercise of the Islamic Center and its members, which burden is not in furtherance of a compelling governmental interest and/or is not the least restrictive means of furthering such interest, in violation of RLUIPA, 42 U.S.C. § 2000cc(a).

35. For purposes of RLUIPA, the City made an “individualized assessment” of the Islamic Center’s property and the property it had contracts to purchase when it considered and denied the Islamic Center’s original and revised applications for rezoning and/or SUP. 42 U.S.C. § 2000cc(a)(2)(C).
36. For purposes of RLUIPA, the City’s denial of the Islamic Center’s plans to construct a mosque, a parking lot, and other improvements “affects interstate commerce.” 42 U.S.C. § 2000cc(a)(2)(A).

WHEREFORE, the United States prays that this Court enter an order that:

1. Declares that Defendant’s policies and practices, as alleged herein, violate RLUIPA;
2. Enjoins Defendant, its officers, employees, agents, successors and all other persons in concert or participation with it, from:
  - (a) discriminating against the Islamic Center and its members and other Muslim religious entities and institutions and their members on the basis of religion or religious denomination; and
  - (b) imposing a substantial burden on the religious exercise of the Islamic Center and its members and other Muslim religious

entities and institutions and their members that is not narrowly tailored to serve a compelling governmental interest; and

3. Requires Defendant, its officers, employees, agents, successors and all other persons in concert or participation with it, to:
  - (a) Take such actions as may be necessary to restore, as nearly as practicable, the Islamic Center and its members to the position they would have been in but for the unlawful conduct of Defendant; and
  - (b) Take such actions as may be necessary to prevent the recurrence of such discriminatory or otherwise unlawful conduct in the future, including but not limited to, providing RLUIPA training to City personnel, establishing procedures to address complaints of RLUIPA violations; and maintaining records and submitting reports relating to RLUIPA compliance.

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

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