

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
UNITED STATES OF AMERICA, :
Plaintiff, :
v. :
THE VILLAGE OF SUFFERN, :
Defendant. :
----- X

CONSENT DECREE

06 Civ. 7713 (WWE) (GAY)

WHEREAS, this action seeks to enforce the Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C. § 2000cc et seq. (“RLUIPA”);

WHEREAS, the United States of America (the “United States”) has commenced the above-referenced lawsuit pursuant to 42 U.S.C. § 2000cc-2(f) to enforce compliance with RLUIPA;

WHEREAS, since 1988, Bikur Cholim, Inc. (“Bikur Cholim”) has operated a “shabbos house” in various locations in the Village of Suffern (the “Village”) for the purpose of providing free kosher meals and overnight lodging to Orthodox Jews who are (i) visiting patients at Good Samaritan Hospital (the “Hospital”) on the Sabbath and other Jewish Holy Days or (ii) discharged from the Hospital and unable to return home prior to the Sabbath or other Jewish Holy Day;

WHEREAS, in 2005, Fellowship House of Suffern, Inc. (“Fellowship House”), purchased a one-family residence, located at 5 Hillcrest Road, directly across the street from the Hospital in Suffern, New York;

WHEREAS, in 2005, Bikur Cholim entered into a lease with Fellowship House for the property at 5 Hillcrest Road and relocated the shabbos house to that property;

WHEREAS, under the terms of the Village's Zoning Law, there is no location within the Village that a shabbos house can operate as of right;

WHEREAS, on November 17, 2005, the zoning board of the Village denied Bikur Cholim's variance application to allow it to operate the shabbos house at 5 Hillcrest Road on the Sabbath and other Jewish Holy Days.

WHEREAS, the United States alleges in its complaint that the Village's denial of the variance violates section 2(a) of RLUIPA, 42 U.S.C. § 2000cc(a)(1), by imposing a substantial burden on the religious exercise of Orthodox Jews without furthering a compelling governmental interest through the least restrictive means;

WHEREAS, Bikur Cholim separately sued the Village for, among other things, violating RLUIPA in a lawsuit entitled Bikur Cholim, Inc., Rabbi Simon Lauber, Fellowship House of Suffern, Inc., Malka Stern, Sara Halperin, Michael Lipman, Abraham Langsam and Jacob Levita v. The Village of Suffern, 05 Civ. 10759 (WWE) (GAY) (the "Private Suit");

WHEREAS, the parties to the Private Suit have entered into a Stipulation of Settlement (the "Private Settlement"), which resolved the Private Suit and provides relief to the private plaintiffs based upon the terms set forth in that agreement;

WHEREAS, the Village is bound by the terms of the Private Settlement and intends to perform its obligations under the settlement in good faith;

WHEREAS, the United States and the Village, having the mutual goal of ensuring that the Village complies with RLUIPA, and desiring to settle this action and to avoid protracted, expensive and unnecessary litigation, agree to the entry of this Consent Decree to resolve all issues that were raised by the United States in its complaint;

NOW, THEREFORE, in resolution of this action, and with agreement of the parties, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

I. JURISDICTION

1. This Court has jurisdiction over the parties and the subject matter of this action, and the Court has authority to enforce and administer the terms of this Consent Decree.
2. This Consent Decree shall take effect immediately upon its entry by the Court. The term of this Decree shall be four (4) years from the date of entry. Expiration of this Consent Decree shall not relieve the Village of any obligation otherwise imposed by law. The United States may move the Court to extend the duration of this Consent Decree for good cause shown.

II. GENERAL INJUNCTION

3. The Village shall not impose or implement any land use regulation in a manner that imposes a substantial burden on the religious exercise of any person, including a religious assembly or institution, unless the Village can demonstrate that imposition of that burden furthers a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest.
4. The Village shall not impose or implement a land use regulation in a manner that discriminates against any assembly or institution on the basis of religion or religious denomination.

III. OPERATION OF THE SHABBOS HOUSE AT 5 HILLCREST ROAD

5. The Village agrees that Bikur Cholim shall be permitted to use the existing one-family residence and property, located at 5 Hillcrest Road, for operating the

shabbos house to provide free overnight lodging, kosher meals, and allow for religious observance and prayer on the Sabbath and other Jewish Holy Days to (i) visitors of patients at the Hospital or (ii) patients discharged from the Hospital and unable to return home prior to the Sabbath or other Jewish Holy Day. No more than 14 (fourteen) visitors and/or discharged patients may be accommodated overnight at the shabbos house at one time. To the extent not inconsistent with the terms of this Consent Decree, Bikur Cholim and Fellowship House shall comply with all applicable laws and regulations enacted or promulgated by the Village of Suffern, and the Village of Suffern shall not be barred from enforcing the same.

IV. NOTICE TO VILLAGE OFFICIALS

6. Within 30 days after the date of entry of this Consent Decree, the Village shall provide a copy of this Consent Decree to the Mayor of Suffern, each member of the Village of Suffern Board of Trustees, the Village of Suffern Building Department, the Village of Suffern Zoning Board of Appeal, and the Village of Suffern Planning Board. In the event that new persons are elected or appointed to these positions during the term of this Consent Decree, a copy of the Decree shall be provided to such persons by the Village promptly after they take office.

V. TRAINING

7. Within one hundred and twenty (120) days after the entry of this Order, the Village shall provide training on the requirements of RLUIPA to: (i) all members of the Village of Suffern Planning Board and Zoning Board of Appeal and (ii) all Building Department employees and code enforcement officers, excluding clerical

staff. The training shall be conducted by a qualified person or organization approved by the United States. The Village shall pay all training costs. Within one-hundred thirty (130) days after the entry of this Order, the Village shall secure and deliver to counsel for the United States a written certification of each employee's attendance at the RLUIPA training, together with a copy of all training materials, including but not limited to a course syllabus, if any.

VI. RECORD-KEEPING AND NOTICE REQUIREMENTS

8. The Village shall maintain copies of all written applications that seek the Village's consideration or approval of any land use for religious purposes. Such applications include, without limitation, applications for conditional use permits, variances, building permits, special permits, special use permits, renewals of permits, special exceptions, or zone text amendments. The Village shall advise the United States in writing within 15 days after receipt of any such application, and within 15 days after the disposition of any such application.
9. Within 15 days after receipt by the Village, the Village shall notify the United States in writing of all amendments to the Village zoning code that have been proposed to, or approved by, the Village. The notification shall include copies of all such proposed or approved amendments, which copies shall also be maintained by the Village.
10. The Village shall maintain copies of all written complaints it receives concerning any alleged restriction or prohibition by the Village of, or interference with, the use of land in the Village for religious purposes. If the complaint is oral, the Village shall prepare a written summary of it, including appropriate information

identifying the complainant (unless the complainant is anonymous) and the substance of the complaint. The Village shall advise the United States in writing within 15 days after receipt of any such written or oral complaint. The Village shall also notify the United States in writing within 15 days after the Village's response to any such complaint.

VII. INSPECTION OF RECORDS

11. Upon reasonable notice by counsel for the United States to counsel for the Village, the Village shall permit representatives of the United States to inspect and copy all pertinent records of the Village, including but not limited to, those records referred to in this Consent Decree.

VIII. ENFORCEMENT

12. The Court shall retain jurisdiction for the duration of this Consent Decree to enforce the terms of this Decree and to resolve any disputes arising under this Consent Decree, after which time the case shall be dismissed with prejudice.
13. The parties to this Consent Decree agree to use their best efforts to effectuate the purposes of the Consent Decree and to resolve informally any differences regarding interpretation of and compliance with the Consent Decree prior to bringing such matters to the Court for resolution.
14. In the event of a failure by the Village to perform in a timely manner any act required by this Consent Decree or otherwise to act in conformance with any provision thereof, the United States may move this Court to impose any remedy authorized at law or equity, including, but not limited to, an order requiring performance of such act or deeming such act to have been performed, and costs

and reasonable attorneys' fees which may have been occasioned by the violation or failure to perform.

IX. INTEGRATION AND MODIFICATION

15. The parties understand and agree that this Consent Decree contains the entire agreement between them, and that no statements, representations, promises, agreements, or negotiations, oral or otherwise, between the parties or their counsel that are not included herein shall be of any force or effect. This Consent Decree may be modified only in writing and with the written consent of the parties and approval of the Court.

X. COSTS AND ATTORNEY'S FEES

16. Each party shall bear its own costs and attorney's fees in this action.
17. This Consent Decree may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same agreement.

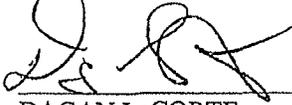
AGREED TO:

PREET BHARARA
United States Attorney for the
Southern District of New York,
Attorney for United States of America

BY:


REBECCA C. MARTIN
Assistant United States Attorney
86 Chambers Street, 3rd Floor
New York, New York 10007
Tel: (212) 637-2800

THE VILLAGE OF SUFFERN

BY: 
DAGAN LaCORTE
Mayor of the Village of Suffern

BY: 
TERRY A. RICE
Attorney for the Village of Suffern

SO ORDERED:


WARREN W. EGINTON
SENIOR U.S. DISTRICT JUDGE