

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

UNITED STATES OF AMERICA, )  
)  
Plaintiff, )  
)  
v. ) Civil Action No.  
)  
METROPOLITAN GOVERNMENT OF )  
NASHVILLE AND DAVIDSON COUNTY,) )  
TENNESSEE, )  
)  
Defendant. )  
)  
\_\_\_\_\_ )

**COMPLAINT**

1. This is a civil action brought by the United States of America to enforce the Fair Housing Act (“FHA”), 42 U.S.C. § 3601 *et seq.*, and the Religious Land Use and Institutionalized Persons Act of 2000 (“RLUIPA”), 42 U.S.C. §§ 2000cc *et seq.*
2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. §§ 3614(a) and § 2000cc-2(f).
3. Venue is proper because the claims alleged herein arose in the Middle District of Tennessee.
4. Defendant, the Metropolitan Government of Nashville and Davidson County, Tennessee (“Metro Government” or “Defendant”) is an incorporated, legal subdivision of the State of Tennessee, located in the Middle District of Tennessee. Metro Government is governed by a Mayor and a Metro Council.
5. Defendant Metro Government, including but not limited to the Zoning Administrator, the Metropolitan Planning Commission, and Metro Council, exercises zoning and land use authority

over land within its boundaries. Title 17 of the Code of the Metropolitan Government of Nashville and Davidson County, Tennessee (“Metropolitan Code” or “zoning code”) contains Metro Government’s zoning and land use regulations.

6. For purposes of RLUIPA, the Defendant constitutes a “government.” 42 U.S.C. § 2000cc-5(4)(A)(i), (ii).

7. Teen Challenge International, founded in 1958, is a Christian, non-profit substance abuse treatment program with locations across the United States and sister entities internationally.

8. At all times relevant to this action, Teen Challenge International, Nashville Headquarters (“Teen Challenge”) has been a Tennessee non-profit corporation.

9. Teen Challenge accepts males and females ages 19 and over to live at an on-site location for a 12-15 month substance abuse treatment program. Residents adhere to a daily schedule that includes chapel, Bible classes, and work assignments on or near the grounds.

10. Residents of Teen Challenge are disabled within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(h).

11. For purposes of RLUIPA, Teen Challenge constitutes a “religious assembly or institution.” 42 U.S.C. §2000cc(a)(1).

12. On or about March 30, 2006, Teen Challenge entered into a contract for the purchase of 13 acres in Davidson County, Tennessee, located at 2141 and 2165 Baker Road (“the Property”). Teen Challenge intended to use the Property as a residential rehabilitation treatment facility.

13. Teen Challenge’s planned use of the property on Baker Road constitutes a dwelling within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(b).

14. At all times relevant to this action, the Property was zoned AR-2a. At the time Teen

Challenge purchased the Property, the zoning code permitted rehabilitative services as of right in districts zoned AR-2a.

15. “Rehabilitation services” is defined by the zoning code as “the provision of treatment for addictive, mental or physical disabilities on either twenty-four hours a day or outpatient basis.”

Metropolitan Code § 17.04.050.

16. On or about April 3, 2006, the Executive Director of Teen Challenge, Norma Calhoun, met with Councilmember I.C. “Rip” Ryman to discuss Teen Challenge’s planned use for the Property in his district.

17. On or about April 19, 2006, Councilmember Ryman circulated a letter to the residents of his district where he stated that he told Teen Challenge “that the neighbors would be opposed to this facility being there.” In the letter, Councilmember Ryman noted that he contacted numerous community members about the property. Additionally, Councilmember Ryman wrote that he called the zoning administrator, Sonny West, to check on the status of the zoning. “[H]e told me that he had **NOT** approved Teen Challenge’s request to establish their organization on this property, as it was not zoned for that type of activity.” (Emphasis in original). The Councilmember also noted in his letter that “this was not a done deal” and that, if the zoning decision changes, “I will surely let you all know and we will act . . . .”

18. Councilmember Ryman sent out a second letter calling a community meeting on or about June 1, 2006, (“the meeting”) to discuss Teen Challenge.

19. At the request of Councilmember Ryman, representatives from the Department of Law, the Department of Codes and Building Safety (“Codes Department”), and the Metropolitan Health Department were present at the meeting. The Codes and Health Departments would later

review Teen Challenge's application for a building permit.

20. Community members voiced strong opposition to Teen Challenge at the meeting.

Community members objected to the fact that persons in recovery from drug or alcohol addiction would live on the Property. Community members expressed concerns that Teen Challenge residents would "wander the streets" and could break into neighbors' homes for drug money.

21. On or about May 24, 2006, Teen Challenge submitted an application for a building permit to Metro Government.

22. Teen Challenge experienced substantial delay and difficulty obtaining approval of its building permit application, including difficulties with the review of the zoning, the swimming pool, and the septic tank for the Property.

23. When Teen Challenge initially applied for a building permit, the zoning purpose on the application was listed as a residence for a "residential rehabilitation treatment facility." Over the course of the next eight months, the Codes Department changed this description to two uses that were not permitted as of right and changed the review status at one point from "accepted" to "rejected."

24. On numerous occasions during the pendency of Teen Challenge's application for a building permit, Councilmember Ryman contacted several Metro Government employees who were involved in processing the application, including individuals with decision-making authority. These communications included discussions about Councilmember Ryman's opposition to Teen Challenge.

25. On November 9, 2006, Councilmember Ryman introduced Ordinance No. BL2006-1260 ("the Ordinance") to delete rehabilitative services as a permitted use in the AG and AR-2a

districts.

26. The Ordinance specifically targeted Teen Challenge. Teen Challenge was the only group that would be immediately affected by the proposed Ordinance.

27. After considering the Ordinance, the Metropolitan Planning Commission recommended disapproval, reasoning that “[r]ural areas can provide safe, secluded settings appropriate to rehabilitation services for people with addictive, mental or physical disabilities.”

28. Nevertheless, Metro Council passed the Ordinance on or about February 6, 2007.

29. Based in part on this change in the zoning code, Metro Government denied Teen Challenge’s application for a building permit.

30. Consequently, Teen Challenge could not operate the program it had planned on the Property and was forced to sell the Property at a loss.

31. The Ordinance remained in effect until July 2008. The Ordinance targeted only rehabilitation services among the four medical uses that were permitted as of right in AG and AR-2a districts. During the relevant time frame, assisted living, hospice, nursing home, and rehabilitation services facilities all were permitted as of right in AG and AR-2a districts without any limits in the zoning code on the number of residents.

**COUNT ONE: FAIR HOUSING ACT**

32. Paragraphs 1-31 are hereby re-alleged and incorporated by reference.

33. The Defendant, through actions including those described above, has (i) denied or otherwise made a dwelling unavailable because of disability in violation of 42 U.S.C. § 3604(f)(1), and (ii) discriminated in the terms, conditions, or privileges of housing, or in the provision of services or facilities in connection with housing, because of disability in violation of

42 U.S.C. § 3604(f)(2).

34. The Defendant's conduct described above constitutes:

- a. A pattern or practice of resistance to the full enjoyment of rights granted by the Fair Housing Act under 42 U.S.C. § 3614(a); or
- b. A denial to a group of persons of rights granted by the Fair Housing Act that raises an issue of general public importance under 42 U.S.C. § 3614(a).

35. The Defendant's conduct described above was intentional, willful, and taken in disregard of the rights of others.

#### **COUNT TWO: RLUIPA**

36. Paragraphs 1-31 are hereby re-alleged and incorporated by reference.

37. The Defendant, through actions including those described above, has imposed a substantial burden on the religious exercise of Teen Challenge in violation of Section 2(a)(1) of RLUIPA, 42 U.S.C. 2000cc(a)(1).

38. The Defendant's actions did not further a compelling government interest and were not the least restrictive means of furthering a compelling government interest.

39. The substantial burden imposed by the Defendant occurred in a program or activity that receives federal financial assistance within the meaning of Section 2(a)(2) of RLUIPA, 42 U.S.C. 2000cc(a)(2).

40. The Defendant's denial of Teen Challenge's application for a building permit and the enactment of Ordinance No. BL2006-1260 constituted the implementation of land use regulations or a system of land use regulations whereby the Defendant made, or had in place formal or informal procedures or practices of, individualized assessments regarding the proposed

uses for the Property within the meaning of Section 2(a)(2) of RLUIPA, 42 U.S.C. 2000cc(a)(2).

**PRAYER FOR RELIEF**

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

A. Declares that the actions of the Defendant described herein constitute a violation of the FHA and RLUIPA;

B. Enjoins the Defendant, its agents, employees, assigns, successors and all other persons in active concert or participation with it, from:

- i. violating the Fair Housing Act by discriminating on the basis of disability;  
and
- ii. substantially burdening the religious exercise of a person, including a religious assembly or institution.

C. Requires such action by the Defendant as may be necessary to restore all persons aggrieved by the Defendant's discriminatory housing practices to the position they would have occupied but for such discriminatory conduct;

D. Awards monetary damages to each person aggrieved by the Defendant's discriminatory housing practices, pursuant to 42 U.S.C. § 3614(d)(1)(B); and

E. Assesses a civil penalty against the Defendant to vindicate the public interest, in an amount authorized by 42 U.S.C. § 3614(d)(1)(c).

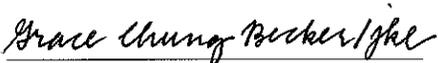
The United States further prays for such additional relief as the interests of justice may require.

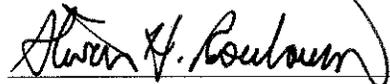
Dated: September 29<sup>th</sup>, 2008

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