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JAMES N. HATTEN, Clerk
By: *BSM* Deputy Clerk

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CITY OF LILBURN, GEORGIA,

Defendant.

Civil Action No. 1:11-cv-2871-JOF

CONSENT ORDER

I. INTRODUCTION

A. Background

1. This Consent Order ("Order") is entered between the United States of America ("the United States") and Defendant City of Lilburn, Georgia ("the City" or "Defendant").
2. This action is brought by the United States to enforce provisions of the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA"), 42 U.S.C. §§ 2000cc, *et seq.*
3. The City is a municipal corporation of the State of Georgia that has the authority to regulate and restrict the use of land and structures within its borders, including granting requests for rezoning and requests for special use permits ("SUPs").
4. 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.
5. The City's requirements for rezoning and SUPs are set forth in Section 1700, *et seq.* of its zoning code.

6. 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 on 1.3 acres of C-1 zoned property at 5064 and 5074 Lawrenceville Highway in the City.
7. In September 2009, the Islamic Center submitted an application to rezone 7.99 acres (the 1.3 that it owned and the 6.6 it had a contract to purchase), from R-100 and C-1 zones to the RA-200 zone, and for a SUP to construct a worship facility, a gymnasium, and a cemetery.
8. 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.
9. On November 12, 2009, the Planning Commission recommended denial of the Islamic Center's application.
10. On November 18, 2009, the City Council denied the Islamic Center's application by a 4-0 vote.
11. 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 worship facility with a basement on approximately four acres, without a cemetery.
12. On December 6, 2010, the Planning Commission recommended denial of the Islamic Center's application.
13. On December 13, 2010, the City Council denied the application by a 2-2 vote. The application was not approved due to a lack of a majority vote to approve the application.

14. On August 16, 2011, the City Council approved by a 3-1 vote a rezoning requested by the Islamic Center that was substantially similar to the Islamic Center's 2010 request for rezoning.
15. The United States' Complaint claims that the City's treatment and denial of the Islamic Center's original and 2010 applications for rezoning and/or SUP constitute the imposition or implementation of a land use regulation that imposes a substantial burden on the Islamic Center's religious exercise, 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 Section 2(a) of RLUIPA, 42 U.S.C. § 2000cc(a). The United States' claim is based upon allegations that the Islamic Center's members, as a result of the treatment and denial of the Islamic Center's applications, are limited in their ability to exercise their religion because of the lack of adequate facilities.
16. The United States' Complaint claims that the City discriminated against the Islamic Center on the basis of religion or religious denomination in violation of Section 2(b)(1) of RLUIPA, 42 U.S.C. § 2000cc(b)(1). The United States claims in its complaint that:
 - a. The City was allegedly motivated to deny the Islamic Center's applications because of religion or religious denomination and to appease members of the public opposed to the Islamic Center on the basis of the Islamic Center's religion or religious denomination; and
 - b. The City has allegedly treated applications for rezoning and/or SUP by non-Muslim religious groups better than it treated the Islamic Center's applications,

even though these other religious groups submitted applications similar to the Islamic Center's applications.

The City denies that it has violated RLUIPA, and it claims that no RLUIPA violations exist.

17. The United States and the City (together "the Parties") agree that 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).
 18. The Parties agree that for purposes of RLUIPA, the City constitutes a "government." 42 U.S.C. §§ 2000cc-5(4)(A)(i), (ii).
 19. The Parties agree that for purposes of RLUIPA, the Islamic Center's use and proposed use of property on Lawrenceville Highway and Hood Road constitutes "religious exercise." 42 U.S.C. §§ 2000cc-5(7)(A)-(B).
 20. The Parties agree that for purposes of RLUIPA, the Islamic Center is a religious "assembly or institution." 42 U.S.C. §§ 2000cc(a)(1), (b)(2).
 21. For purposes of this Order, the Parties shall utilize definitions and analyses of RLUIPA consistent with the decisions of the U.S. Supreme Court, the Eleventh Circuit Court of Appeals, and other court decisions that may be relevant to RLUIPA issues.
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- B. **Consent of the Parties to Entry of This Order**
22. The Parties agree that this Court has jurisdiction over the subject matter of this case pursuant to 28 U.S.C. § 1345 and 42 U.S.C. § 2000cc-2. The Parties further agree that the controversy should be resolved without further proceedings or an evidentiary hearing.

23. As indicated by the signatures below, the Parties agree to the entry of this Order.

Therefore, it is hereby **ORDERED, ADJUDGED and DECREED:**

II. GENERAL INJUNCTION

24. For the term of this Order, Defendant shall not:

- a. 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, which burden is not in furtherance of a compelling governmental interest and/or is not the least restrictive means of furthering such interest;
- b. 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;
- c. Otherwise engage in any conduct that violates RLUIPA; or
- d. Coerce, intimidate, threaten, interfere with or retaliate against any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by RLUIPA.

III. APPLICATION OF ISLAMIC CENTER

25. The City, in conformity with all local, state and federal laws, shall permit the Islamic Center to build a house of worship and accessory uses on the land at 5064 and 5074 Lawrenceville Highway and at 238 and 405 Hood Road.

26. The City, in conformity with all local, state and federal laws, shall process any application that came before the City Council on December 13, 2010, as has been modified and agreed to by the Islamic Center, to build a house of worship and accessory

uses on the land at 5064 and 5074 Lawrenceville Highway and at 238 and 405 Hood Road, expeditiously upon submission of such applications to the appropriate City entity. To the extent that the Islamic Center needs approvals from the City to construct a house of worship and accessory uses on the above-referenced land, the City shall apply its Code, along with any building codes, fire codes, and other applicable laws or regulations, in an expeditious manner that is fully consistent with the processing, review, and approval of all similar applications made to the City by others. The City shall not improperly interfere with or otherwise delay the processing or issuing of any necessary permits and will use its best efforts to promptly schedule any required meetings and/or public hearings.

27. If the City amends its Code, the amendment shall include a grandfathering provision to permit the Islamic Center to build, in a manner consistent with the terms of this Order, a religious house of worship and accessory uses.

IV. NOTICE TO PUBLIC AND COMPLAINT PROCEDURES

28. Within 60 days after the date of entry of this Order, the City shall implement the following procedures to ensure notice to the public of this Order and its requirements:
 - a. *Signage.* The Department of Planning and Economic Development and the Code Compliance Department shall post and maintain printed signs within sight of the public counter(s)/desk(s) where applications and information related to land-use are provided. The signs, which shall be no smaller than 10 x 14, shall state in bold, block letters, at least one half-inch high, that the City of Lilburn does not discriminate against religious exercise in violation of RLUIPA, and shall state that

the City has entered into this Order and shall provide a copy of it to any person upon request. The remaining text of this sign shall be in a font size of no less than 14 point, and shall conform to Appendix A.

- b. *Internet Posting.* The Department of Planning and Economic Development and the City shall post and maintain on the first page of their respective Internet home pages a notice stating the following in type equivalent in size to the majority of other type on the page, in capital letters: "Consistent with the United States Constitution and the Religious Land Use and Institutionalized Persons Act of 2000, the City of Lilburn does not discriminate on the basis of religion in the application of its laws, policies, or procedures, including the application of its land use regulations and zoning laws. Information about a Consent Order resolving a religious-discrimination lawsuit brought by the United States against the City of Lilburn under the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA") is available here." The words "available here" shall contain a link that connects interested persons to a full text of a notice that shall conform with Appendix A and to a copy of the Order.
- c. *Newspaper Publication.* The City shall purchase advertising in the Atlanta Journal-Constitution Sunday and Wednesday editions, for three consecutive weeks, stating that the City does not discriminate against religious exercise in violation of RLUIPA. The notice shall be of a size equivalent to at least one-eighth page, shall be printed in at least 12-point font, and shall state that the City

has entered into this Order and that a copy of the Order is posted on the City's website. The text of this publication shall conform to Appendix B.

- d. *Notice to Past Religious Use Applicants.* The City shall provide notice of this Order to every person, religious assembly, or institution, since January 1, 2003, who or which had applied for and was denied a SUP, rezoning, or other land use, concerning the religious use of property. The notice shall explain why the City is contacting them and shall indicate that the Department of Planning and Economic Development will make a copy of this Order available. A copy of the form for this notice is provided in Appendix A.
- e. *Notice to Future Religious Use Applicants.* Upon receipt of an application or inquiry about rezoning, SUP, or other individualized land use determination related to religious land use, the Department of Planning and Economic Development shall provide to the applicant or the person inquiring about the application process a document that describes the application process and the criteria under which the Planning Department will accept, and the City will decide, the application. The Planning Department shall provide to the applicant or the person inquiring a form describing an applicant's rights under RLUIPA. The language of the form shall conform to Appendix A.

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29. Within 60 days of the date of entry of this Order, the Department of Planning and Economic Development shall institute a process by which to address complaints by any person who believes that the City, either officially or through any one of its officers, employees, or agents, may have violated RLUIPA. Upon complaint by such a person, the

City, through designated non-clerical employees of the Department of Planning and Economic Development, shall offer to provide a written form to the complainant, and shall provide that form upon request. A copy of this form is attached as Appendix C. If the complaint is written, the Planning Department shall accept and maintain the original complaint and any proposed or actual action taken by the City in response to the complaint. If the complaint is oral, the City, through designated non-clerical employees of the Department of Planning and Economic Development, shall prepare a written summary of the complaint, along with the name, address, phone number, and other identifying information of the complainant and any proposed or actual action taken by the City in response to the complaint. Upon receiving any complaint, the City shall offer to provide the complainant a copy of this Order, and shall provide a copy of this Order to the complainant upon request.

V. TRAINING AND EDUCATION OF CITY PERSONNEL

30. Within 30 days after the date of entry of this Order, the City shall conduct and complete the following program for all persons with responsibilities relating to the implementation and enforcement of all zoning or land use regulations, including all managerial employees of the City, the Mayor and all members of the City Council, Department of Planning and Economic Development officers or employees, excluding clerical staff, Planning Commission members, and all Code Compliance Department officers or employees, excluding clerical staff. Such program shall include:

- a. Furnishing to each person a copy of this Order, and informing each such person, in person, of the duties of City Administration, the Department of Planning and Economic Development, Planning Commission members, and the Code Compliance Department under this Order; and
 - b. Securing a signed statement, appearing at Appendix D, from each such person stating that he or she has received, has read, and understands this Order and the policy of nondiscrimination mandated by this Order, and further understands that violation of this Order may result in sanctions against the City.
31. Each person with responsibilities relating to the implementation and enforcement of all zoning or land use regulations within the City shall be given a copy of, and be required to read this Order, and shall sign the statement appearing at Appendix D, within 10 days after the date he or she commences membership, employment, or an agency relationship with City Administration, Department of Planning and Economic Development, the Planning Commission, and the Code Compliance Department.
32. Within 90 days after the date of entry of this Order, the City shall provide training on the requirements of RLUIPA to: (1) the Mayor and all City Council members; (2) all managerial employees of the City; (3) all Code Compliance Department officers or employees, excluding clerical staff; (4) all employees of the Department of Planning and Economic Development, excluding clerical staff; and (5) all Planning Commission members (together "City Land Use Personnel"). The training shall be conducted by a qualified person or organization unrelated to Defendant or Defendant's attorneys and approved by the United States. The City shall pay all training costs. Within 90 days after

the second anniversary of the date of entry of this Order, the City Attorney or the City's outside counsel shall provide training on the requirements of RLUIPA to City Land Use Personnel. In addition, the City Attorney or the City's outside counsel shall provide training on the requirements of RLUIPA to all newly elected, appointed, or hired City Land Use Personnel on a quarterly basis.

VI. REPORTING, RECORD-KEEPING, AND MONITORING

33. Within 180 days after the date of entry of this Order, and every 6 months thereafter, the City shall send a report evidencing its compliance with this Order to counsel for the United States, except that the last report shall be filed 60 days prior to the anniversary of the Order.¹ This report shall consist of the following:
- a. A signed declaration by the Mayor stating that the City has complied with Sections II-VI of this Order;
 - b. Appropriate documentary evidence, including but not limited to the text of all new policies or procedures implemented as a result of this Order, including those designated under paragraph 29, demonstrating the City's compliance with Sections II-VI of this Order;
 - c. Copies of all signed statements from each person described in paragraphs 30-31 of this Order;
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¹ For purposes of this Order, all submissions to the United States or its counsel should be submitted to: Chief, Housing and Civil Enforcement Section, Civil Rights Division, United States Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530, Attn: DJ# 210-19-12, Fax: 202-514-1116, or as otherwise directed by the United States.

- d. Written certification of each employee's attendance at the RLUIPA training described in paragraph 32, together with a copy of sign-in sheets and all training materials, including but not limited to a course syllabus, if any;
 - e. Copies of all religious land use applications described in paragraph 35 of this Order; and
 - f. Any written or oral complaint described in paragraph 36 of this Order. If the complaint is written, the City shall provide a copy; if the complaint is oral, the City shall provide a copy of the written summary described in paragraph 36 of this Order.
34. The City shall notify the United States in writing within 15 days of all amendments to the City's zoning code that have been approved by the City and that affect religious land use. The notification shall include copies of all such approved amendments, which copies shall be maintained by the City.
35. The City shall maintain copies of all written applications that seek the City's consideration or approval of any land use for religious purpose. Such applications include, without limitation, applications for rezoning, special use permits, variances, building permits, special permits, conditional use permits, renewals of permits, special exemptions, or zoning text amendments. The City shall advise the United States in writing within 15 days after the disposition of any such application. Upon request, with reasonable notice, the United States shall be permitted access to these records for review, inspection, and copying.

36. The City shall maintain copies of all written complaints it receives, as described in paragraph 29. The City shall advise the United States in writing within 15 days after receipt of any such written or oral complaint. The City shall also notify the United States in writing within 15 days after the City's response to any such complaint. Upon request, with reasonable notice, the United States shall be permitted access to these records for review, inspection, and copying.
37. The City shall retain all records related to the Islamic Center. These records shall include, but are not limited to: (1) correspondence to the City concerning the Islamic Center; (2) complaints made to the Police Department, Code Enforcement Department, and other City enforcement departments, concerning the Islamic Center or its members; (3) information concerning harassment or threatening conduct directed at the Islamic Center or its members; and (4) any law enforcement or investigative action taken by the City concerning the Islamic Center or its members. Upon request, with reasonable notice, the United States shall be permitted access to these records for review, inspection, and copying.

VII. DURATION OF ORDER AND TERMINATION OF LEGAL ACTION

38. This Order shall remain in effect for five (5) years after the date of its entry, with the exception of paragraphs 28 and 30-33, which shall remain in effect for three (3) years after the date of its entry.
39. The Court shall retain jurisdiction for the duration of this Order to enforce the terms of the Order, after which time the case shall be dismissed with prejudice. The United States

may move the Court to extend the duration of the Order if it believes Defendant has violated one or more provisions of the Order, or in the interests of justice.

40. The Parties shall endeavor in good faith to resolve informally any differences regarding interpretation of or compliance with this Order prior to bringing such matters to the Court for resolution. However, in the event of a failure by the City to perform in a timely manner any act required by this Order 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, and costs and reasonable attorneys' fees which may have been occasioned by the violation or failure to perform.

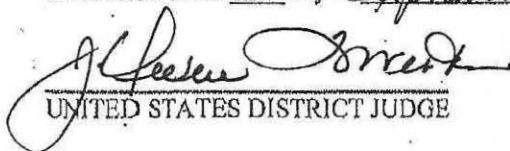
VIII. TIME FOR PERFORMANCE

41. Any time limits for performance imposed by this Order may be extended by the mutual written agreement of the Parties.

IX. COSTS OF LITIGATION

42. Each party to this litigation shall bear its own costs and attorneys' fees associated with this litigation.

ENTERED THIS 1st day of September 2011.


UNITED STATES DISTRICT JUDGE

The undersigned apply for and consent to the entry of this Order:

Dated August 26, 2011

FOR THE UNITED STATES:

THOMAS E. PEREZ
Assistant Attorney General



STEVEN H. ROSENBAUM
Chief

MICHAEL S. MAURER

Deputy Chief

ERIC TREENE

Special Counsel

RYAN G. LEE

Trial Attorney

Civil Rights Division

United States Department of Justice

Housing and Civil Enforcement Section

950 Pennsylvania Avenue, N.W.

Washington, D.C. 20530

Tel.: (202) 305-3109

Fax: (202) 514-1116

Email: ryan.lee@usdoj.gov

SALLY QUILLIAN YATES
United States Attorney
Northern District of Georgia



AILEEN BELL-HUGHES

Assistant United States Attorney

75 Spring Street S.W., Suite 600

Atlanta, GA 30303

Tel.: (404) 581-6133

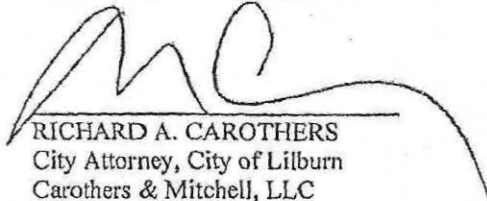
Fax: (404) 581-6181

Email: aileen.bell.hughes@usdoj.gov

GA Bar # 375505

Dated August 26, 2011

FOR THE CITY OF LILBURN:

A handwritten signature in black ink, appearing to read 'R. Carothers', is written over a horizontal line.

RICHARD A. CAROTHERS
City Attorney, City of Lilburn
Carothers & Mitchell, LLC
1809 Buford Highway
Buford, GA 30518
Tel. (770) 932-3552
Fax (770) 932-6348
Richard.carothers@carmitch.com

APPENDIX A

NOTICE

CONSISTENT WITH THE UNITED STATES CONSTITUTION AND THE RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT OF 2000, THE CITY OF LILBURN DOES NOT DISCRIMINATE ON THE BASIS OF RELIGION IN THE APPLICATION OF ITS LAWS, POLICIES, OR PROCEDURES, INCLUDING THE APPLICATION OF ITS LAND USE REGULATIONS AND ZONING LAWS. On _____, 2011, the United States District Court for the Northern District of Georgia entered a Consent Order resolving a religious-discrimination lawsuit brought by the United States against the City of Lilburn under the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA"), for the City's treatment of the A.G.A. Islamic Organization, Inc. d/b/a Dar-E-Abbas Shia Islamic Center. Under the terms of the Consent Order the City of Lilburn is required, among other things, to inform all applicants for any rezoning, special use permits, or other land use determinations under the City's zoning code related to religious use, of the applicant's rights under RLUIPA.

Under RLUIPA, no government, including the City of Lilburn, may apply its zoning or land use laws in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution. RLUIPA also provides that no government, including the City of Lilburn, may apply a land use regulation in a manner that treats a religious assembly or institution (a church, for example) on less than equal terms than a nonreligious institution or assembly (a day care center or movie theater, for example). Finally, RLUIPA

provides that no government, including the City of Lilburn, may impose or implement a land use regulation in a manner that discriminates against a religious assembly or institution.

If you believe that the City of Lilburn, or any other local government or municipality, has discriminated against you in the implementation of its zoning or land use laws, please contact the United States Department of Justice at:

(202) 514-4713

You may also write to:

*United States Department of Justice
Civil Rights Division
Housing and Civil Enforcement Section
950 Pennsylvania Ave. N.W. -G St.
Washington, DC 20530*

If you would like a copy of the Consent Order referenced above and entered in United States v. City of Lilburn, Civ. No. (N.D. Ga.), please visit the City's website at www.cityoflilburn.com or the Department of Justice's website at <http://www.justice.gov/crt/about/hce/caselist.php>.

APPENDIX B

NOTICE OF SETTLEMENT BY CONSENT ORDER BETWEEN THE UNITED STATES AND THE CITY OF LILBURN, GEORGIA

On _____, 2011, the United States District Court for the Northern District of Georgia entered a Consent Order resolving a religious-discrimination lawsuit brought by the United States against the City of Lilburn under the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA"), for the City's treatment of the A.G.A. Islamic Organization, Inc. d/b/a Dar-E-Abbas Shia Islamic Center.

Under RLUIPA, no government, including the City of Lilburn, may apply its zoning or land use laws in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution. RLUIPA also provides that no government, including the City of Lilburn, may apply a land use regulation in a manner that treats a religious assembly or institution (a church, for example) on less than equal terms than a nonreligious institution or assembly (a day care center or movie theater, for example). Finally, RLUIPA provides that no government, including the City of Lilburn, may impose or implement a land use regulation in a manner that discriminates against a religious assembly or institution.

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APPENDIX C

COMPLAINT AGAINST THE CITY OF LILBURN

Under the terms of a settlement with the United States Department of Justice, the City of Lilburn is required to perform certain actions to ensure that it does not violate the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA"), including processing this complaint and providing you with a free copy of the Consent Order entered in United States v. City of Lilburn, Case No. ____ (N.D. Ga.).

Name: _____

Address: _____

Telephone: _____

Please state briefly the nature of the service or request that you made of the City of Lilburn (e.g., rezoning, special use permit, variance, etc.). In addition, please include a description of the religious land use or institution at issue in your request:

Please state briefly in what way(s) you believe that the City of Lilburn may have violated your rights under the United States Constitution, federal law, the Georgia State Constitution, Georgia State law, or the City of Lilburn Code:

If you believe that the City of Lilburn, or any other local government or municipality, has discriminated against you in the implementation of its zoning or land use laws, in addition to completing this complaint, please contact the United States Department of Justice at:

(202) 514-4713

You may also write to:

*United States Department of Justice
Civil Rights Division
Housing and Civil Enforcement Section
950 Pennsylvania Ave, N.W. -G St.
Washington, DC 20530*

APPENDIX D

CERTIFICATION OF RECEIPT OF CONSENT ORDER

I, _____, certify that I have received the Consent Order entered in United States v. City of Lilburn, Civ. No. (N.D. Ga.). I further certify that I have read and understand the aforementioned Consent Order, that all my questions were answered concerning it, and that I understand that my violation of this Consent Order may result in sanctions against the City of Lilburn.

(Signature)

(Print name)

(Date)