UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

v.

CITY OF PORT JERVIS,

Defendant.

No. 16 Civ. 9026 (KMK)

CONSENT DECREE

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, the City of Port Jervis, including its elected and appointed officials, agents and employees (collectively, the "City"), enacted a law known as Local Law No. 7 of 2015 ("Local Law No. 7") that bans places of worship and related facilities from operating in the Central Business District ("CBD") and Service Commercial District ("SCD"), two of the City's zoning districts;

WHEREAS, the United States alleges in its complaint that the City's enactment of a ban, through Local Law No. 7, on locating places of worship in the CBD and SCD treats religious assemblies or institutions on less than equal terms with nonreligious assemblies or institutions, in violation of RLUIPA, 42 U.S.C. § 2000cc(b)(1);

WHEREAS, the Goodwill Evangelical Presbyterian Church (the "Goodwill Church") had, prior to the passage of Local Law No. 7, contracted to purchase property in the CBD (the

"Property") for use as a place of worship, and had a reasonable expectation that the Property could be used for religious purposes, given that places of worship were permitted as of right in the CBD at that time and that a City building official had assured the Goodwill Church that use of the Property as a place of worship was permitted;

WHEREAS, as a result of the passage of Local Law No. 7, the Goodwill Church suffered delay, uncertainty, and expense, and was ultimately deterred from the purchase of the Property;

WHEREAS, the United States further alleges in its complaint that Local Law No. 7 imposed a substantial burden on the religious exercise of the Goodwill Church without furthering a compelling governmental interest through the least restrictive means, in violation of RLUIPA, 42 U.S.C. § 2000cc(a)(1); and

WHEREAS, the United States and the City, having the mutual goal of ensuring that the City 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 five years from the date of entry.

Expiration of this Consent Decree shall not relieve the City 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 NONDISCRIMINATION PROVISIONS

3. The City shall not impose or implement any land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution.

4. The City 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 City can demonstrate that imposition of that burden furthers a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest.

III. AMENDMENT OF THE CITY'S ZONING LAWS AND REGULATIONS

5. Within 60 days of the entry of this Consent Decree, the City shall amend its zoning laws to repeal the ban on the use of property for places of worship in the CBD and the SCD that currently exists pursuant to Local Law No. 7. This duration of time is intended to allow the City to follow all applicable procedures in enacting the amendment.

6. The City's zoning laws and regulations, as amended, shall not treat religious assemblies or institutions on less than equal terms with nonreligious assemblies or institutions. Furthermore, the City shall not implement zoning laws or regulations that substantially burden the ability to use property within

any zoning district of the City as a place of worship, unless the imposition of that burden furthers a compelling governmental interest and is the least restrictive means of furthering that compelling interest.

7. The City will amend its zoning laws and regulations in a manner that complies with RLUIPA, and all other federal, local, and state laws and regulations.

8. The City will provide a copy of the proposed amendment to its zoning laws and regulations to the United States within 30 days of entry of this Consent Decree.

IV. NOTICE TO THE PUBLIC

9. Within 30 days after the date of entry of this Consent Decree, the City shall notify the public of this Consent Decree by publishing the text of the Consent Decree. Acceptable notice shall include (1) posting such this Consent Decree for no fewer than 180 days in the City's main office, and (2) posting this Consent Decree on the City's website (www.portjervisny.org) for no fewer than 180 days. In addition, the City will provide a copy of the Consent Decree to any person upon request.

V. NOTICE TO CITY OFFICIALS

10. Within 30 days after the date of entry of this Consent Decree, the City shall provide a copy of this Consent Decree to the Mayor of Port Jervis and each member of the Common Council of Port Jervis. 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 City promptly after they take office.

VI. TRAINING

11. Within 180 days after the entry of this Order, the City shall provide training on the requirements of RLUIPA to: (1) the Mayor of Port Jervis; (2) each member of the Common Council of Port Jervis; and (3) all building and code enforcement officers, excluding clerical staff. The training shall be conducted by a qualified person or organization approved by the United States. The City shall pay all training costs. Within 190 days after the entry of this Order, the City 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.

VII. RECORDKEEPING AND NOTICE REQUIREMENTS

12. The City shall maintain copies of all written applications that seek the City'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 City 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.

13. Within 15 days after receipt by the City, the City shall notify the United States in writing of all amendments to the City zoning laws that have been proposed to, or approved by, the City. The notification shall include copies of all such proposed or approved amendments, which copies shall also be maintained by the City.

14. The City shall maintain copies of all written complaints it receives concerning any alleged restriction or prohibition by the City of, or interference with, the use of land in the City for religious purposes. If the complaint is oral, the City shall prepare and maintain a written summary of it, including appropriate information identifying the complainant (unless the complainant is anonymous) and the substance of the complaint. 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.

VIII. INSPECTION OF RECORDS

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

IX. ENFORCEMENT

16. 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.

17. 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.

18. In the event of a failure by the City 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 attorney's fees which may have been occasioned by the violation or failure to perform.

X. INTEGRATION AND MODIFICATION

19. 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.

XI. COSTS AND ATTORNEY'S FEES

20. Each party shall bear its own costs and attorney's fees in this action.

AGREED TO:

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

By: _____
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CITY OF PORT JERVIS, NEW YORK

By: _____
WILLIAM D. BAVOSO
Corporation Counsel, City of Port Jervis

SO ORDERED:

_____
UNITED STATES DISTRICT JUDGE

Dated: 11/22/16