

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF PENNSYLVANIA  
ERIE DIVISION**

|                                     |   |                  |
|-------------------------------------|---|------------------|
| <b>UNITED STATES OF AMERICA,</b>    | ) |                  |
|                                     | ) |                  |
| Plaintiff,                          | ) | Civil Action No. |
|                                     | ) | 1:25-cv-00022    |
| v.                                  | ) |                  |
|                                     | ) |                  |
| <b>SUGAR GROVE TOWNSHIP and the</b> | ) |                  |
| <b>SUGAR GROVE AREA</b>             | ) |                  |
| <b>SEWAGE AUTHORITY,</b>            | ) |                  |
|                                     | ) |                  |
| Defendants.                         | ) |                  |

**CONSENT ORDER**

**I. Introduction**

1. The United States (“Plaintiff”) brought this action to enforce the Religious Land Use and Institutionalized Persons Act of 2000 (“RLUIPA”), 42 U.S.C. §§ 2000cc *et seq.*

2. In its Complaint, the United States alleges that Sugar Grove Township, Pennsylvania (“Township”) and the Sugar Grove Area Sewage Authority (“SUGASA” or “Authority”) (collectively, “Defendants”), violated RLUIPA by enacting and enforcing two ordinances against its Old Order Amish residents: (1) an ordinance mandating that certain structures connect to the Defendants’ municipal sewage system, which requires the use of an electric grinder pump (“Sewage Connection Ordinance”); and (2) an ordinance banning privies on property intended for permanent habitation (“Privy Ordinance”).

3. Specifically, the United States alleges that the Township’s and SUGASA’s enforcement of these ordinances against Old Order Amish households violates RLUIPA because they substantially burden the sincerely held religious beliefs and religious exercise of the

Township's Old Order Amish residents, whose religious beliefs restrict the use of electricity and require adherents to remain separate and apart from the modern world. See 42 U.S.C. § 2000cc(a)(1).

## **II. Stipulated Facts**

4. Sugar Grove Township is a governmental unit in Warren County in the Commonwealth of Pennsylvania.

5. Sugar Grove Township spans approximately 35 square miles in Warren County, Pennsylvania. The Township encircles the much smaller Sugar Grove Borough ("Borough"), which has approximately 600 residents across 1 square mile.

6. The Township is governed by, and acts through, an elected three-member Board of Supervisors. The Board of Supervisors is a legislative body, responsible for enacting and applying zoning and land use regulations, among other things.

7. The Township is responsible for the acts and omissions of its agents and agencies.

8. The Township is party to a Pennsylvania Act 537 plan dated on or about June 20, 2002, which requires treatment of sewage pursuant to the Pennsylvania Sewage Facilities Act, 35 P.S. § 750.1, collected from certain areas within the Township.

9. The Township's municipal sewage system was constructed by the SUGASA pursuant to the Township's Act 537 Plan, and the SUGASA manages the municipal sewage system and enforces the Township's sewage-related ordinances.

10. SUGASA is an agent of the Township for enforcement purposes related to the municipal sewage system.

11. The Township and the SUGASA employ a Sewage Enforcement Officer ("SEO") who conducts sewage-related investigations on behalf of both entities.

12. Old Order Amish residents constitute approximately 25% of the Township's total population of approximately 1,500 people.

13. The Township's Old Order Amish residents use privies for the disposal of human waste (i.e., "black water"), which do not use running water or electricity and remain unconnected from municipal sewage systems.

14. In 2004, the Township enacted the Sewage Connection Ordinance pursuant to Pennsylvania Second Class Township Code 53 P.S. §67502. The Township's Sewage Connection Ordinance requires every structure within 150 feet of the municipal sewage system to connect to it and provides criminal penalties for failure to comply. Ordinance No. 04-06-15.

15. Approximately 14 properties owned by Old Order Amish residents have structures within 150 feet of the municipal sewage system that are subject to mandatory connection under the Sewage Connection Ordinance.

16. Since the 2004 enactment of the Sewage Connection Ordinance, residents of the 14 Old Order Amish properties with structures within 150 feet of the municipal sewage system have refused to connect because of their sincerely held religious beliefs.

17. As a result of not complying with the Township's Sewage Connection Ordinance, the Township and the SUGASA have imposed municipal liens and fines and obtained judgements against Old Order Amish property owners totaling more than \$200,000.

18. As a result of not complying with the Sewage Connection Ordinance, two Old Order Amish residents were charged and convicted of criminal offenses and sentenced to pay criminal fines.

19. On October 18, 1993, the Township passed its original Privy Ordinance, No. 93-10-01, which it subsequently amended three times: (1) in November 2012 by Ordinance No. 12-

11-06; (2) in December 2016 by Ordinance No. 16-12-06; and (3) in July 2017 by Ordinance No. 17-07-05.1. The amended 2017 Privy Ordinance prohibits residents from using a privy on any property intended for “permanent residence,” even if structures on the property are not within 150 feet of the municipal sewage system.

20. Old Order Amish residents cannot comply with the Privy Ordinance because of their sincerely held religious beliefs.

### **III. Statement of Agreement on Legal and Other Terms**

21. The Parties agree that the Township and SUGASA each constitute a “government” under RLUIPA, 42 U.S.C. §§ 2000cc-5(4)(A)(i), (ii).

22. The Parties agree that the Sewage Connection Ordinance and the Privy Ordinance are “land use regulations” that “limit[] or restrict[] a claimant’s use or development of land” under RLUIPA, 42 U.S.C. §§ 2000cc-5(4)(A)(i) and 2000cc-5(5).

23. The Parties agree that the Sewage Connection and Privy Ordinance and the Township’s and SUGASA’s enforcement of them are part of a program or activity that “receives Federal financial assistance” within the meaning of 42 U.S.C. § 2000cc(a)(2)(A).

24. The Parties agree that the Old Order Amish are a “religious assembly or institution,” as defined by RLUIPA, 42 U.S.C. § 2000cc(2)(b)(2), (2)(b)(3).

25. The Parties agree that Old Order Amish residents’ ownership of their homes is a “property interest” within the meaning of 42 U.S.C. § 2000cc-5(5).

26. The Parties agree that Old Order Amish residents use their homes “for the purpose of religious exercise” within the meaning of 42 U.S.C. § 2000cc-5(7)(B).

27. The Parties have voluntarily agreed to resolve the United States’ claims against the Township and SUGASA by entering into this Consent Order (the “Order”), as indicated by

the signatures below. The Defendants do not admit liability for prior actions taken regarding the Sewage Connection and Privy Ordinances.

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

**IV. Jurisdiction**

28. The Court has jurisdiction over this action, and may grant the relief sought herein, under 28 U.S.C. § 1331, 28 U.S.C. § 1345, and 42 U.S.C. § 2000cc-2.

**V. Injunctive Relief**

**A. Prohibited Conduct and Affirmative Obligation**

29. The Defendants, their agents, agencies, subdivisions, entities, employees, successors, and all other persons or entities in active concert or participation with the Defendants are permanently enjoined from:

- i. Imposing or implementing a land use regulation in a manner that, within the meaning of RLUIPA, imposes a substantial burden on the religious exercise of any person, including a religious assembly or institution, unless the Defendants can demonstrate that imposition of that burden furthers a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
- ii. Imposing or implementing a land use regulation in a manner that treats a religious assembly or institution on less than equal terms than a nonreligious assembly or institution;
- iii. Requiring a property owner to connect to any future extensions of the municipal sewage system, in violation of RLUIPA, if the property owner owned the property before the extension;

- iv. Otherwise engaging in any conduct that violates RLUIPA; or
- v. Coercing, intimidating, threatening, interfering with, or retaliating against any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by RLUIPA.

30. Within sixty (60) days of this Order, the Defendants shall repeal the existing Privy Ordinance and will replace it with one that grants exceptions for sincerely held religious beliefs, as set forth in Appendix A (“Amended Privy Ordinance”). Old Order Amish residents may apply for religious exemptions through written form Appendix B (“Privy Exemption Request”), and for alternate sewage treatment systems through written form Appendix C (“Alternate Sewage Treatment System Request”).

31. To comply with RLUIPA’s provisions, the Defendants may grant waivers, accommodations, or adjustments to the requirements of the Sewage Connection Ordinance and Amended Privy Ordinance to avoid imposing a substantial burden on religious exercise.

32. Defendants shall exempt all property owners from mandatory connection under the Sewage Connection Ordinance, so long as:

- i. the property owner has a sincerely held religious belief against connection to the municipal sewage system;
- ii. the property owner owned the subject property on or before this Order’s entry date;
- iii. the property is not already connected to the municipal sewage system; and

- iv. the property owner submits a Request for Exemption from Sewage Connection Ordinance (Appendix D).

33. Within ninety (90) days of receiving a Request for Exemption from Sewage Connection Ordinance, Defendants shall take all necessary steps to release, relieve, discharge, and annul all liens, fines, citations, judgments and other monetary penalties against that household for noncompliance with the Sewage Connection Ordinance. This includes all liens, fines, judgments and other monetary penalties outlined in Appendix E and returning the Old Order Amish Church schoolhouse property (parcel YV-003-5284) listed as the last entry in Appendix E.

34. Within ninety (90) days of receiving a Privy Exemption Request or Request for Exemption from Sewage Connection Ordinance, the Defendants shall reconsider the denial of any building, construction or similar permit for that household based on prior non-compliance with the Sewage Connection Ordinance or the Privy Ordinance.

35. Any connection exemption granted under this Order must be transferrable to anyone who purchases, inherits, or otherwise obtains ownership of a connection-exempt property, so long as the new property owner has a sincerely held religious belief against connection to the municipal sewage system and submits a Request for Exemption from Sewage Connection Ordinance.

36. Nothing in this Order is meant to restrict the Township's or SUGUSA's ability to enforce the Sewage Connection Ordinance or Amended Privy Ordinance in a manner consistent with RLUIPA and all other applicable state and federal laws after this Order's entry date, except that the Township and SUGUSA shall not enforce either Ordinance against Old Order Amish residents until at least 120 days after this Order's entry date.

**B. Notice to Public**

37. Within sixty (60) days of this Order's entry date, the Defendants shall implement the following procedures to ensure notice is provided to the public of this Order and its requirements:

- i. *Signage.* The Township shall post and maintain a written notice in a conspicuous place in its Township Building. The notice shall conform in content to Appendix F;
- ii. *Notice to Future Old Order Amish Applicants.* Upon receipt of an application or inquiry about any land use determination requiring a decision of the Township concerning an Old Order Amish household, the Township shall provide to the applicant or the person inquiring a notice that conforms in content to Appendix F.

**C. Complaint Procedure**

38. Within sixty (60) days of this Order's entry date, the Township shall submit to the United States for review and approval a written process to address complaints by any person who believes that the Township, SUGASA, or other land use or zoning body of the Township, acting through their agents or employees, may have violated RLUIPA or otherwise discriminated on the basis of religion or burdened the exercise of religion through the implementation of its zoning or land use laws. The process shall include the requirements described in this Paragraph. The Township shall implement the process within fifteen (15) days of the United States' approval. The Township shall accept written and oral complaints. Upon receipt of an oral complaint, the Township shall offer and provide, but shall not require submission of, the form attached as Appendix G and shall provide assistance in completing and submitting the form if assistance is



requested or if it is apparent to a Township employee or staff member that assistance is needed. The Township shall respond in writing to any written or oral complaints within fifteen (15) days of its receipt of such complaint. The Township shall retain each original written complaint, its records concerning each written or oral complaint, and documents and information relating to any proposed or actual action taken by the Township in response to the complaint.

#### **D. Training**

39. Within 120 days of this Order's entry date, the Township and SUGASA shall provide training(s) on the requirements of this Order and RLUIPA to all Township and SUGASA officers, elected and appointed officials, employees, and agents whose duties relate to planning, permitting, construction, code enforcement, and building occupancy, including, but not limited to, the Board of Supervisors, the members of the SUGASA, the SEO, and the Township Attorney. The trainings shall be conducted consistent with the following:

- i. The training(s) shall be conducted by a qualified third-party or parties subject to the United States' approval. Within sixty (60) days after this Order's entry date, the Township and SUGASA shall submit to counsel for the United States the name of the person(s) or organization(s) proposed to provide the training, together with copies of the professional qualifications of such person(s) or organization(s) and copies of the materials proposed for use at the training;
- ii. The Township and SUGASA shall bear all expenses associated with the training;
- iii. The Township and SUGASA shall video-record the training(s) and maintain copies of the written materials provided for each training. Each newly elected, appointed, or hired individual covered by this Paragraph shall receive training within thirty (30) days after the date he or she enters office or begins service or

employment either by (i) attending the next regularly scheduled live training, if it occurs within the thirty (30) day period, or (ii) viewing the video recording of the most recent live training and receiving copies of any written materials provided for that training;

- iv. The Township and SUGASA shall provide each person covered by this Paragraph a copy of this Order at the time of the person's training; and
- v. The Township and SUGASA shall obtain a signed statement (in the form of Appendix H) from each person covered by this Paragraph stating that the person attended the training, received and understands this Order and its mandates, and understands that a violation of this Order may result in legal action against the Township. The Township shall retain the original of each signed statement and provide a copy of each signed statement to the United States within ten (10) days of the person's training.

**E. Reporting, Record-Keeping, and Monitoring**

40. Within one-hundred and eighty (180) days of this Order's entry date, and every subsequent six (6) months, the Township and SUGASA shall provide a report to the United States detailing its compliance with this Order, except the Township shall submit the last report sixty (60) days before the Order's expiration.<sup>1</sup> The Township and SUGASA shall include the following information in the reports:

- i. A signed declaration by the Township Board of Supervisors stating that the Township has complied with Section V of this Order;

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<sup>1</sup> For purposes of this Consent Order, all submissions to the United States shall be sent via email to the United States' counsel, as instructed by the United States' counsel.

- ii. Appropriate documentary evidence, including but not limited to the text of all new policies or procedures implemented as a result of the Order, demonstrating the Township's and SUGASA's compliance with Section V of this Order;
- iii. Appropriate documentary evidence of all Privy Exemption Request and Request for Exemption from Sewage Connection Ordinance applications, in the form of Appendix B and Appendix D, submitted by Old Order Amish residents to the Township or SUGASA;
- iv. Appropriate documentary evidence demonstrating that liens, fines, judgments and other monetary penalties against Old Order Amish residents have been released and discharged as required by Paragraph 33;
- v. Appropriate documentary evidence of any actions taken by the Township pursuant to Paragraph 34;
- vi. Appropriate documentary evidence of any enforcement actions taken against Old Order Amish residents for alleged noncompliance with the Sewage Connection Ordinance and Amended Privy Ordinance, including any citations, liens, fines, judgments, or other monetary and non-monetary penalties imposed;
- vii. Any complaints of religious discrimination against the Township or SUGASA through the implementation of zoning or land use laws, either received as oral or written complaints described in Paragraph 38 or by another Township employee or official, including a copy of the complaint, any documents associated with the complaint, and any written response to the complaint by the Township and SUGASA. If the complaint has not been resolved, the Township and SUGASA shall report any efforts the Township and SUGASA took, or plan to take, to resolve the complaint; and

viii. Any plans the Township or SUGASA have to expand the municipal sewage system or its laterals, including any proposed blueprints, maps, or other documents that indicate where the extension might be located and whether any properties owned by Old Order Amish residents abut the proposed extension.

41. Within thirty (30) days of adopting any amendments or modifications to the Sewage Connection Ordinance, the Amended Privy Ordinance or other Township rules, laws, or ordinances that affect religious or nonreligious assembly or institutional land uses, the Township shall send copies of the enacted amendments or modifications to the United States. Any amendment or modification must be consistent with RLUIPA.

#### **F. Inspection of Records**

42. Upon reasonable notice to counsel for the Defendants, the Defendants shall permit representatives of the United States to inspect and copy all non-privileged, pertinent records related to the claims asserted in the Action, including, but not limited to, those records referenced in Section V.

#### **VI. Enforcement**

43. The Parties shall attempt in good faith to resolve informally any differences regarding interpretation of or compliance with this Order prior to seeking relief from this Court. However, if the United States believes that the Township and SUGASA have failed to timely perform any act required by this Order, or to act in conformance with any provision, whether intentionally or not, the United States may move the Court to impose any remedy authorized at law or equity, including, but not limited to, reasonable attorneys' fees that may have been occasioned by the violation or failure to perform. Absent exigent circumstances, the United

States will allow Defendants thirty (30) days to cure a violation of this Order once notified by the United States before moving the Court for relief.

#### **VII. Termination of Litigation Hold**

44. The Parties agree that, as of the date of this Order's entry, litigation is not "reasonably foreseeable" concerning the matters described above or in the United States' Complaint. If any Party previously implemented a litigation hold to preserve documents, electronically stored information (ESI), or things related to the matters described above or in the United States' Complaint, the Party is no longer required to maintain such litigation hold. Nothing in this Paragraph relieves any Party of any other obligations imposed by this Order.

#### **VII. Duration**

45. Except for Paragraph 29 where this Order expressly provides that its requirements are permanent, the duration of this Order shall be for a period of five (5) years from the Order's entry date.

46. For the duration of this Order, this Court has exclusive jurisdiction over and is the venue for any dispute relating to this Order.

47. If, prior to the expiration date of this Order, the United States determines that the Township and SUGASA have failed substantially, whether intentionally or not, to satisfy the terms of this Order, or the United States has good cause to believe that any violations of RLUIPA are ongoing, or if the interests of justice so require, the United States, upon notice to the Township and SUGASA, may seek to extend the term of this Order. If the Court has not granted the United States' request for extension by the time the Order is set to expire, the Order and its terms will remain in effect until the Court rules on the pending motion(s).

48. The case will be dismissed with prejudice upon the expiration of this Order.

49. Any other time limits for performance imposed by this Order may be extended by mutual written agreement of the Parties. The other provisions of this Order may be modified only by motion to the Court.

#### **VIII. Costs**

50. Except as noted in Paragraph 43, each Party shall bear its own legal and other costs incurred in connection with this litigation, including costs related to the preparation and performance of this Order.

#### **IX. Scope and Execution**

51. This Order contains the complete agreement between the Parties. No prior or contemporaneous communications, oral or written, between the Parties that are not included herein shall be of any force or effect.

52. The Township and SUGASA and their counsel represent and warrant that the Township and SUGASA are fully authorized to enter into this Order.


53. This Order is binding on Township's and SUGASA's successors, transferees, heirs, and assigns.

54. The Parties shall defend this Order against any legal challenge by any third-party. In the event that this Order or any of its terms are challenged in a court other than the United States District Court for the Western District of Pennsylvania, the Parties agree to seek removal or transfer to this Court. However, enforcement of the existing Sewage Connection Ordinance or the Amended Privy Ordinance may be initiated by the Defendants in the appropriate Pennsylvania state court(s).

55. The Parties agree that they shall not, individually or in combination with another, seek to have any court declare or determine that any provision of this Order is illegal or invalid.

56. Should any provision of this Order be declared or determined by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected, and any provision determined to be invalid or illegal shall be stricken from the Order.

**IT IS SO ORDERED this 18th day of March, 2025.**

  
UNITED STATES DISTRICT JUDGE