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**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA
 WESTERN DIVISION**

22 UNITED STATES OF AMERICA,)
 23)
 24 Plaintiff,)
 25 v.)
 26 CITY OF WALNUT, CALIFORNIA,)
 27)
 28 Defendant.)

CV 10 6774 -GW
 COMPLAINT (Fmax)

1 Plaintiff, the United States of America, files this Complaint and alleges:

2 1. This action is brought by the United States to enforce the Religious Land
3 Use and Institutionalized Persons Act of 2000 (“RLUIPA”), 42 U.S.C. §§ 2000cc –
4 2000cc-5. This Court has jurisdiction over this action under 42 U.S.C. § 2000-cc-2(f)
5 and 28 U.S.C. §§ 1331 and 1345.
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8 2. Venue is proper because the claims alleged herein arose in the Central
9 District of California. 28 U.S.C. § 1391.

10 3. Defendant City of Walnut – including but not limited to the City Council,
11 the Planning Commission, and the Department of Community Development – is a
12 political subdivision of the State of California. Defendant has the authority to regulate
13 and restrict the use of land and structures within its borders, including granting
14 Conditional Use Permits. See Walnut Code § 25-194.
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17 4. Under California law, Defendant, as a general law city, has the capacity to
18 sue and be sued. Cal. Gov. Code § 34501.

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

22
23 6. The Chung Tai Zen Center (“Zen Center”) is a Buddhist religious
24 organization that had a Buddhist house of worship in the City of Walnut, California with
25 a membership between 100 and 200 members. The Zen Center currently operates its
26 religious activities at the Middle Land Chan Monastery in Pomona, California.
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1 7. For purposes of RLUIPA, the Zen Center is a “religious assembly or
2 institution.” 42 U.S.C. § 2000cc(2)(b)(1).

3 8. Consistent with the teachings of Zen Buddhism, the Zen Center holds
4 meditation classes throughout the week. These are the same religious activities that it
5 conducted through its center when it was in the City of Walnut.

6 9. For purposes of RLUIPA, the Zen Center’s meditation classes constitute
7 “religious exercise.” 42 U.S.C. § 2000cc-5(7)(A)-(B).

8 10. The Zen Center owned and previously operated out of a single-family
9 house located at 20836 Marcon Drive in Walnut. (hereinafter the “Marcon Drive
10 property”). The house sat on a parcel of otherwise open land, also owned by the Zen
11 Center, that was 2.19 acres in size. In or about 2001, the Zen Center determined that the
12 house was too small for the Zen Center to conduct its religious activities, given the size
13 of its membership.

14 11. The Marcon Drive property is located in a district that is zoned R-1, or
15 residential.

16 12. Houses of worship are permitted in R-1 districts by Conditional Use
17 Permit, provided they are located on more than one acre of land. Walnut Code § 25-
18 39(a). Houses of worship are not permitted as of right anywhere in Walnut, with the
19 exception of one small parcel of land that is already occupied by a church.

20 13. At least six houses of worship operate in the immediate area of the Marcon
21 Drive property, including two on the same block. These houses of worship, along with
22 all houses of worship in Walnut, are Christian.
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14. Defendant has delegated review of Conditional Use Permit applications to
1 the Walnut Planning Commission. This Commission has five members, each of whom
2 is appointed by one of the five members of the Walnut City Council.
3

4 15. In July 2001, the Zen Center began designing a new house of worship for
5 the Marcon Drive property that would be large enough to accommodate its growing
6 number of worshipers. Throughout 2002, the Zen Center met with neighborhood
7 organizations and Walnut city officials to solicit their views and discuss the Zen
8 Center's plans.
9

10 16. On March 19, 2003, the Zen Center presented its proposed design to the
11 Walnut Planning Commission. The Zen Center did not submit a Conditional Use
12 Permit application at this time; rather, it sought the Commission's informal guidance
13 and feedback on the design, which it planned to incorporate into a final design.
14
15

16 17. At the March 19, 2003 meeting, the Planning Commissioners expressed
17 concern that the Zen Center's proposed facility was too large and had too much off-
18 street parking, which caused them to believe that the Zen Center was underestimating
19 the number of worshipers and visitors it would attract. Commissioners suggested that
20 the Zen Center could obtain a Conditional Use Permit if it downsized the proposed
21 house of worship and reduced the amount of proposed off-street parking. One
22 Commissioner, however, stated that the Zen Center should not be approved even with
23 such revisions. Additionally, the Commission's Vice-Chair, James Hall, expressed
24 concern that the Zen Center would seek to "recruit" and influence students who attended
25 a nearby middle school.
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18. Following this meeting, the Zen Center significantly revised its proposed design. The new design reduced the amount of floor space by 43%. The facility was broken up into four separate buildings instead of a single structure. Building heights were lowered by five feet, and the number of parking spaces was reduced.

19. On or about June 7, 2006, the Zen Center applied for a Conditional Use Permit to construct this smaller house of worship.

20. During 2006, the Zen Center and its architects met with Walnut planning staff concerning the proposed design. Walnut planning staff suggested further reducing the size of the proposed house of worship, by another 4,000 square feet, and providing more off-street parking than the Walnut Code required.

21. On April 11, 2007, the Zen Center submitted an updated Conditional Use Permit application with a revised design that incorporated Walnut planning staff's suggestions. The revised design further reduced the size of the house of worship and added off-street parking, as planning staff recommended.

22. In submitting its application, the Zen Center informed Walnut planning staff of other actions it intended to take to address their concerns. These actions included the following: the Zen Center would hold no more than two meditation classes per day; attendance at these classes would be by registration only and would be limited to no more than 50 persons per class; and class times would be scheduled so as not to conflict with the beginning and end of the school day and, concomitantly, traffic from a nearby middle school. The Zen Center further agreed to hire valet parkers for special events to ensure that attendees did not park in the surrounding neighborhood.

23. Upon the request of Walnut planning staff, the Zen Center also
1 commissioned and submitted a traffic study by an independent consulting firm. The
2 study found that the Zen Center would not significantly increase traffic in the area.
3

4 24. At the June 6, 2007 hearing of the Planning Commission, Walnut planning
5 staff recommended approval of the Zen Center's Conditional Use Permit application.
6

7 25. Despite the planning staff's recommendation, the Planning Commission
8 declined to take action on the Zen Center's application at the June 6, 2007 hearing, and
9 postponed the matter until September 5, 2007.
10

11 26. At the September 5, 2007, hearing, the Planning Commission discussed at
12 length and heard testimony regarding the Zen Center's application, but again took no
13 action. Instead, the Commission required that the Zen Center commission an updated
14 traffic study that would address ten new issues and that would collect significant
15 additional data, including calculating traffic levels for additional intersections and
16 calculating pedestrian traffic in the area. Walnut's Community Development Director
17 stated that these issues were not "normally addressed in your standard traffic impact
18 analysis . . ."
19

20
21 27. The Zen Center complied with the Commission's requirements and
22 submitted an updated traffic study in October 2007. The updated study again concluded
23 that the Zen Center would not significantly impact traffic in the surrounding area.
24

25 28. On January 16, 2008, after a lengthy public hearing, the Planning
26 Commission voted 4-1 to deny the Zen Center a Conditional Use Permit.
27
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29. At the January 16, 2008 hearing, the Commissioners provided explanations
1 for denying the application, including a belief that the Zen Center would be a “tourist
2 attraction” and would attract numerous visitors and adherents from outside Walnut.
3
4 Although the proposed Zen Center was in fact smaller than other houses of worship in
5 Walnut, certain Commissioners stated that the Zen Center, as a Buddhist house of
6 worship, would resemble much larger Buddhist temples elsewhere in California and in
7
8 Taiwan.

9 30. The Planning Commission issued its formal resolution denying the permit
10 on January 30, 2008.

11
12 31. Following the decision, the City, through its City Manager, advised a
13 representative of the Zen Center that any appeal to the City Council of the decision of
14 the Planning Commission would be fruitless given the up-coming municipal election in
15
16 April 2008.

17 32. On February 14, 2008, the Zen Center submitted a three-page letter to the
18 Walnut City Council explaining its objections to the Planning Commission’s January
19
20 30, 2008 resolution. This letter was submitted within the time allowed for an appeal of
21 a Planning Commission decision pursuant to §25-240(b) of the Walnut Code.

22 33. Defendant did not respond to the Zen Center’s February 14, 2008 letter.

23
24 34. Because of Defendant’s denial of the Conditional Use Permit, the Zen
25 Center was not allowed to operate at the Marcon Drive property, and moved its
26
27 operations to a less-desirable location in Pomona, California.
28

35. At least since 1980, Defendant has not denied an application for a
1 Conditional Use Permit to build, expand or operate a house of worship.

2 36. None of the Conditional Use Permits granted since 1980 to build, expand
3
4 or operate a house of worship has required the house of worship to provide more off-
5 street parking spaces than the Walnut Code required.

6 37. On August 20, 2008, the Planning Commission approved a Conditional
7
8 Use Permit for a Catholic church that, when completed, will be over three times larger
9 and over 20 feet higher than the proposed Zen Center. This church's total capacity will
10 be approximately 1,100 persons.

11 38. The Catholic church holds large events that attract followers from outside
12
13 Walnut.

14 39. In support of its application, the Catholic church submitted a traffic study
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16 that used a similar methodology to that of the Zen Center's traffic study. The Planning
17 Commission did not challenge or otherwise dispute this study and did not require the
18 church to revise it.

19 40. Between 1998 and 2003, approximately one to two blocks from the Zen
20
21 Center, Defendant constructed a Civic Center complex consisting of three nonreligious
22 assemblies or institutions: a new City Hall (which replaced an existing, smaller City
23 Hall), a Gymnasium/Teen Center and a Senior Center. The Civic Center complex added
24 over 38,000 square feet of new public floor space to the City of Walnut.
25

26 41. A traffic study commissioned by Defendant concluded that the Civic
27
28 Center complex would not significantly increase traffic nor endanger area pedestrians or

students. It further found that traffic levels in the area were low and could easily
1 accommodate additional traffic.

2 42. The Civic Center traffic study used a similar methodology to that of the
3 Zen Center's traffic study. Defendant did not challenge or otherwise dispute this study
4 or ask for it to be revised.
5

6 43. Defendant further rejected a proposal to locate the Gymnasium/Teen
7 Center at a site several miles away from the Civic Center because, among other reasons,
8 doing so would increase Defendant's operating costs and was not necessary to ensure
9 the safety of residents and students near the Civic Center site.
10

11 44. For purposes of RLUIPA, Defendant's denial of a Conditional Use Permit
12 constitutes the "application" of a "land use regulation" that "limits or restricts a
13 claimant's use or development of land (including a structure affixed to land)." 42
14 U.S.C. § 2000cc-5(5).
15

16 45. Defendant's treatment and denial of the Zen Center's Conditional Use
17 Permit constitutes the imposition or implementation of a land use regulation that treated,
18 and continues to treat, the Zen Center on less than equal terms with a nonreligious
19 assembly or institution, in violation of RLUIPA, 42 U.S.C. § 2000cc(b)(1).
20

21 46. Defendant's treatment and denial of the Zen Center's Conditional Use
22 Permit constitute the imposition or implementation of a land use regulation that, as
23 applied to the Zen Center, discriminated, and continues to discriminate, against the Zen
24 Center on the basis of religion or religious denomination, in violation of RLUIPA, 42
25 U.S.C. § 2000cc(b)(2).
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47. Defendant's treatment and denial of the Zen Center's Conditional Use

1 Permit constitute the imposition or implementation of a land use regulation that imposes
2 a substantial burden on the Zen Center's religious exercise, which burden is not in
3 furtherance of a compelling governmental interest and/or is not the least restrictive
4 means of furthering such interest, in violation of RLUIPA, 42 U.S.C. § 2000cc(a).
5

6 WHEREFORE, the United States prays that this Court enter an order that:
7

8 1. Declares that Defendant's policies and practices, as alleged herein, violate
9 RLUIPA;

10 2. Enjoins Defendant, its officers, employees, agents, successors and all
11 other persons in concert or participation with it, from (a) treating the Zen Center and
12 other religious entities and institutions on less than equal terms with non-religious
13 assemblies, (b) discriminating against the Zen Center and other religious entities and
14 institutions on the basis of religion or religious denomination, and (c) imposing a
15 substantial burden on the Zen Center's religious exercise and that of other religious
16 entities and institutions that is not narrowly tailored to a compelling governmental
17 interest.
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21 3. Any additional relief as the interests of justice may require.
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23
24 Dated 9/13, 2010.

25 Respectfully submitted,
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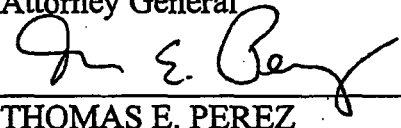
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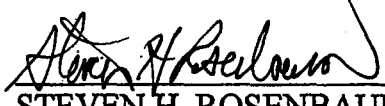
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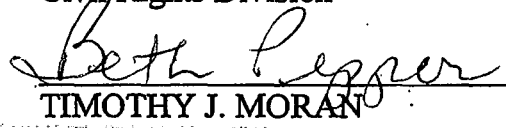
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