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CENTRAL DIST. OF CALIF.
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22 UNITED STATES DISTRICT COURT
 23 CENTRAL DISTRICT OF CALIFORNIA
 24 WESTERN DIVISION

25 UNITED STATES OF AMERICA,)
 26)
 27 Plaintiff,)
 28)
 v.)
)
 CITY OF LOMITA, CALIFORNIA,)
)
)
 Defendant.)

CV 13-00707 -mm
(CWx)
COMPLAINT

1 Plaintiff, the United States of America, files this Complaint and alleges:
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3 1. This action is brought by the United States to enforce the Religious Land
4 Use and Institutionalized Persons Act of 2000 (“RLUIPA”), 42 U.S.C. §§ 2000cc-
5 2000cc-5. This Court has jurisdiction over this action under 42 U.S.C. § 2000cc-2(f)
6 and 28 U.S.C. §§ 1331 and 1345.
7

8 2. Venue is proper under 28 U.S.C. § 1391(b) because the claims alleged
9 herein arose in the Central District of California.
10

11 3. The City of Lomita (“the City”) is a political subdivision of the State of
12 California. Under California law, as a general law city the City has the capacity to sue
13 and be sued. Cal. Gov. Code § 34501.
14

15 4. For purposes of RLUIPA, the City constitutes a “government.” 42 U.S.C.
16 § 2000cc-5(4)(A)(i), (ii).
17

18 5. The City has the authority to regulate and restrict the use of land and
19 structures within its borders. See Lomita, Cal., Code §§ 11-1.12.01, 11-1.70.01, 11-
20 1.72.01, 11-1.75.05.
21

22 6. The City is governed by five City Council members, one of whom also
23 serves as the Mayor. The City Council has the authority to grant legislative
24 amendments to the Lomita Zoning Ordinance, including but not limited to changes to
25 zone text amendments, amendments to the City’s Zoning Map, and amendments to the
26 City’s General Plan Use Map.
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28

1 7. The Lomita Planning Commission is composed of seven members. The
2 Planning Commission has the authority to grant conditional use permits, variances, and
3 site plan reviews.

4
5 8. The Islamic Center of South Bay (“Islamic Center”) is a Muslim religious
6 organization that has a mosque in the City with a membership of approximately 150 to
7 200 members. Since 1985, the Islamic Center has operated its prayer hall on its current
8 site. At all times relevant to this Complaint, the Islamic Center operated its religious
9 activities at four contiguous properties located at 25816 Walnut Street, 25829 ¼ Appian
10 Way, 25833 Appian Way, and 25833 ½ Appian Way in Lomita, California.

11
12
13 9. Consistent with Islamic practice, the Islamic Center holds prayer services
14 five times per day. The Islamic Center also hosts fellowship activities, educational
15 programs, and other activities that are part of the Islamic faith.

16
17 10. The Islamic Center’s use of its property constitutes “religious exercise”
18 under RLUIPA. 42 U.S.C. §§ 2000cc-5(7)(A)–(B).

19
20 11. For purposes of RLUIPA, the Islamic Center is a “religious assembly or
21 institution.” 42 U.S.C. § 2000cc(a)(1).

22 12. Members of the Islamic Center are limited in their ability to exercise their
23 religion in a number of ways by their current site, including, but not limited to, the
24 following:

- 25
26 a. As a tenet of their religion, the Islamic Center members believe they should
27 pray as a community. Because the current facility lacks sufficient space,
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members often have to pray outside or in the small outbuildings located across the property;

b. The Islamic Center’s current mosque has insufficient facilities for members to perform “wudu,” ritual washing, before prayer; they are too small to accommodate the congregation and are located some distance from the prayer hall;

c. Features of the Islamic Center’s current mosque, including the design of the buildings and exposure to the elements for members who must pray outdoors, prevent proper concentration during prayer;

d. The Islamic Center’s space and design constraints prevent members from being able to host weddings, educational programs, and other fellowship activities that are important to the members’ exercise of their faith;

e. The Islamic Center does not have a nursery or an area for mothers to nurse babies during services, which prevents some parents from being able to attend prayers; and

f. The Islamic Center members believe that the current mosque does not accurately reflect their respect for God. The members believe that it is important to build and maintain a mosque that reflects God’s beauty and honors God.

13. To remedy these deficiencies, in September 2008 the Islamic Center submitted an application to demolish the existing structures on its four lots and build a

1 new center. The new building would be two-story, and include a prayer hall, wudu
2 facilities, a library, classrooms, a kitchen, a multi-purpose room, an office, nursery
3 space, and apartments for the imam and the caretaker.

4
5 14. Prior to 1989, the property where the prayer hall is located was zoned R-1
6 Single-Family Residential. Religious facilities are conditionally-permitted uses in the
7 R-1 zone.

8
9 15. In 1989, the property where the prayer hall is located was rezoned C-R
10 Commercial Retail. Under the City's Zoning Ordinance, a religious facility is not a
11 permitted use in the C-R zone. The Islamic Center has operated as a lawful non-
12 conforming use since its property was rezoned in 1989.

13
14 16. Three of the properties comprising the Islamic Center are now located in
15 the C-R zone. One of the properties remains zoned R-1.

16
17 17. Prior to submitting the application, representatives of the Islamic Center
18 had four meetings with members of the City's Community Development Department
19 who advised the Islamic Center about what sort of land-use entitlements would be
20 necessary for the proposed project. The Islamic Center submitted an application in line
21 with the recommendations of the Community Development Department on September
22 12, 2008.

23
24
25 18. The Islamic Center requested that two of its lots be zoned back to R-1 and
26 that Lomita's General Plan Land Use Map and Zoning Map be amended to reflect the
27 change. The Islamic Center also requested a conditional use permit to allow it to
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1 operate a religious facility on the site, a site plan review to permit less-than-required
2 setbacks, and a request for a variance to permit the minaret to be higher than the
3 maximum height in the R-1 zone.
4

5 19. The Community Development Department directed the Islamic Center to
6 commission a traffic study to determine the potential traffic impact from the proposed
7 facility. The traffic study concluded that the proposed project would have no additional
8 impact on traffic.
9

10 20. The City's Public Safety Traffic Commission reviewed the Islamic
11 Center's proposed project and determined that the new design would improve the
12 existing traffic flow and parking conditions.
13

14 21. The Community Development Department reviewed the Islamic Center's
15 application and issued a report that recommended that the Planning Commission
16 recommend that the City Council approve the project.
17

18 22. The Planning Commission heard the matter on June 8, 2009. There was
19 testimony both for and against the project. At the end of the meeting, the Planning
20 Commission voted to continue the matter and directed the Islamic Center and the
21 Community Development Department staff to work with the neighbors in an effort to
22 address concerns about the potential impacts of the project.
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25 23. Following the Planning Commission meeting, the Islamic Center held two
26 community meetings at City Hall to work with the neighbors. Following these
27 meetings, the Islamic Center modified its design by reducing the size of the building,
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1 adding additional landscaping to the sides of the property bordering the residential
2 neighborhood, raising the height of the windows and frosting the glass on the second
3 story so that no one could look out the window into yards of the neighboring properties,
4 reducing the height of the minaret, adding a gate to eliminate access to the property
5 from one of the side streets, relocating the imam and caretaker apartments to a single-
6 story home on the street frontage to preserve the craftsman-style "look" of the
7 neighborhood, negotiating a renewable lease of the nearby Methodist church's parking
8 lot to provide additional off-street parking, agreeing to an occupancy cap of 210
9 persons, and agreeing to a condition requiring that all organized events be conducted
10 indoors.

14 24. The Community Development Department reviewed the Islamic Center's
15 revised application and issued a second report recommending that the Planning
16 Commission recommend that the City Council approve the project.

18 25. The Planning Commission reheard the application on September 9, 2009.
19 During the public hearing, 41 people spoke in favor of the project and 15 spoke against.
20 At the close of the public hearing, the Planning Commission voted 4-3 to recommend
21 that the City Council approve the project.

23 26. The Islamic Center continued to schedule community meetings at its
24 facility and at City Hall in an effort to work with the neighbors and obtain feedback on
25 the project. Several of the neighbors who opposed the project expressed their intention
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1 to oppose the project regardless of any additional changes the Islamic Center made to
2 the design.

3 27. The Methodist church received complaints from neighbors about having
4 allowed the Islamic Center to lease its parking lot. As a result of these complaints, the
5 Methodist church revoked the parking lease that had been providing the Islamic Center
6 with additional off-street parking for Friday afternoon prayers.
7

8
9 28. The City Council held a public hearing on the Islamic Center's application
10 on March 1, 2010. Four members of the City Council were eligible to hear the
11 application; the fifth member was recused because he had previously voted against the
12 project while a member of the Planning Commission.
13

14 29. During the public hearing before the City Council, approximately 56
15 people spoke in favor of the project and 27 spoke against it. At the close of the hearing,
16 the City Council voted 4-0 to deny the Islamic Center's application in its entirety.
17

18 30. For purposes of RLUIPA, the City Council's denial of the Islamic Center's
19 application constitutes the "application" of a "land use regulation" that "limits or
20 restricts a claimant's use or development of land (including a structure affixed to land)."
21 42 U.S.C. § 2000cc-5(5).
22

23 31. The City's treatment and denial of the Islamic Center's application
24 constitutes the imposition or implementation of a land use regulation that imposes a
25 substantial burden on the religious exercise of the Islamic Center and its members,
26 which burden is not in furtherance of a compelling governmental interest and/or is not
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1 the least restrictive means of furthering such interest, in violation of RLUIPA. 42
2 U.S.C. § 2000cc(a).

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

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5 1. Declares that the City's policies and practices, as alleged herein, violate
6 RLUIPA;

7
8 2. Enjoins the City, its officers, employees, agents, successors and all
9 other persons in concert or participation with it, from imposing a

10 substantial burden on the religious exercise of the Islamic Center and its
11 members that is not narrowly tailored to a compelling governmental
12 interest;

13
14 3. Requires the City, its officers, employees, agents, successors, and all other
15 persons in concert or participation with it, to:

16
17 a. Take such actions as may be necessary to restore, as nearly as
18 practicable, the Islamic Center and its members to the position they
19 would have been in but for the City's unlawful conduct; and

20
21 b. Take such actions as may be necessary to prevent the recurrence of
22 such unlawful conduct in the future, including but not limited to,
23 providing RLUIPA training to City personnel, establishing
24 procedures to address complaints of RLUIPA violations, and
25 maintaining records and submitting reports relating to RLUIPA
26 compliance; and
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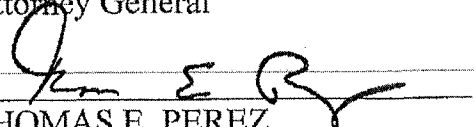
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4. Orders any additional relief as the interests of justice may require.

Dated February 1, 2013.

Respectfully submitted,

ERIC H. HOLDER, JR.
Attorney General



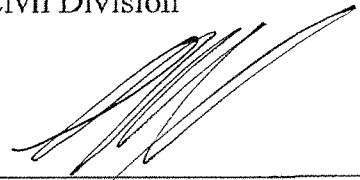
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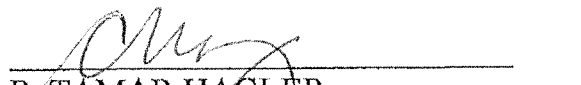


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