

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

HIS HEALING HANDS CHURCH, §
a Michigan non-profit corporation, §
Plaintiff, §

v. §

Case No. _____

LANSING HOUSING COMMISSION, §
a Michigan municipal entity, §
Defendant. §

**VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE
RELIEF AND DAMAGES**

NOW COMES, Plaintiff, His Healing Hands Church (the “Church”), a Michigan non-profit corporation, by and through its attorneys, RICKARD, DENNEY, GARNO & ASSOCIATES, and for its Verified Complaint for Declaratory and Injunctive Relief and Damages against Defendant Lansing Housing Commission, states as follows:

Introduction

1. This case seeks declaratory, injunctive and other relief to protect and vindicate fundamental constitutional rights. Contrary to the First and Fourteenth Amendments of the U.S. Constitution, Defendant Lansing Housing Commission (“LHC”) refuses to make the community room at its public housing developments available to His Healing Hands Church for religious meetings which include

religious worship and Bible-based religious teaching, even though it makes the room available for a wide variety of other religious and non-religious community groups. LHC's decision has forced the Church to hold its weekly meetings in outdoor/open air locations near the housing developments. With Michigan's cold weather fast approaching, LHC's unlawful decision needlessly threatens to leave the Church, its members and attendees, including the children, out in the cold.

Jurisdiction and Venue

2. This action arises under the Constitution and laws of the United States. Jurisdiction is proper on this Court pursuant to 28 U.S.C. § 1331 and 1343.

3. The Church's claims for declaratory and injunctive relief are authorized by 28 U.S.C. § 2201 and 2202, by Rules 57 and 65 of the Federal Rules of Civil Proceedings, and by the general legal and equitable powers of this Court. Plaintiff's claims for damages are authorized under 42 U.S.C. § 1983 and by the general legal powers of this Court.

4. Venue is proper under 28 U.S.C. § 1391(b) and 28 U.S.C. § 102(b)(1) because the conduct giving rise to Plaintiff's claims occurred in this Court's district, specifically in Ingham County, Michigan.

Plaintiff

5. Plaintiff His Healing Hands Church is a church affiliated with the Assemblies of God family of churches and it is incorporated as a non-profit

corporation under the laws of the State of Michigan and its principal ministry location is in Lansing, Michigan, Ingham County, Michigan.

6. Dr. Eleanore Kue, a medical doctor, is the pastor of the church; for approximately 50 hours per week she operates His Healing Hands Medical Clinic, which provides important medical services to the poor in a medically underserved community of Lansing; on Sundays she conducts religious meetings, including meetings for the occupants of LHC's public housing developments. Exhibit 1 – Dr. Kue Affidavit.

Defendant

7. Defendant Lansing Housing Commission ("LHC") is a public housing authority which operates several public housing developments in the Lansing, Michigan area, including but not limited to, the Hildebrandt Park housing development located at 3122 Turner Street, Lansing, Michigan and the LaRoy Froh Townhouses located at 2400 Reo Road, Lansing, Michigan; each community has a community center which is used by the administrative staff as well as a community room which is made available to a wide variety of community groups and such community room (estimated size of 24' x 30' each) are amply suitable to seat at least 50 persons and more than sizeable enough to comfortably and safely seat all those coming to His Healing Hand Church's Sunday meetings.

8. LHC is, pursuant to Michigan statutory law, a “public body corporate,” it was created by ordinance by the City of Lansing and, pursuant to Michigan law, has complete control over all its housing developments including those at issue in this case, and, to the extent not inconsistent with federal law or regulation, state law or local ordinance, has comprehensive authority to prescribe reasonable rules for the just and effective administration of its local housing developments, including but not limited to, rules concerning the use of common areas. Mich. Compiled Laws, 125.65, et seq., 125.665; 125.694b.

9. LHC’s commission members are chosen solely by the Mayor of the City of Lansing. Exhibit 2 - LHC Bylaws.

10. The principal offices of LHC are located in Lansing, Michigan in Ingham County, Michigan. Exhibit 2.

11. The community rooms at LHC’s Hildebrandt Park and LaRoy Townhouses are separate rooms (estimated to be 24’ x 30’) amply big enough to hold 50 or more persons for a wide variety of religious and non-religious community groups.

Statement of Facts

12. Though LHC has no written or published policy governing who may use its community rooms or for what purpose, LHC makes those community rooms at its public housing developments available to a wide variety of religious and non-

religious community organizations, including but not limited to, other churches and religious ministries, including but not limited to, Mt. Hope Church, a Baptist church, a local Catholic church, Youth Haven Ranch (a Christian youth camp ministry, which also sponsors after-school club meetings at public housing developments where, among other things, they teach Bible verses) (such club meetings are regularly conducted by this group at both housing developments, each on Thursdays), the Boy Scouts and Girl Scouts, and various non-religious community groups, including but not limited to, groups sponsoring aerobic classes, various Ingham County Health Department parenting programs concerning being better parents, stress reduction, domestic violence, yoga, budgeting, and a local football team, and apparently residents' use of the community room is largely unregulated as to restrictions on any communicative content. Exhibit 1 - Dr. Kue Affidavit; Exhibit 3 - LHC website excerpt ("LHC provides meeting space for both Boy and Girl Scouts."); Exhibit 5 – Youth Haven Reach website materials.

13. The religious and non-religious community groups which have made use of the LHC community rooms have used them for both religious and non-religious activities, and the religious activities have included religious teaching, and singing. Exhibit 1 – Dr. Kue Affidavit.

14. On behalf of the Church, Dr. Kue approached the LHC management at LHC's Hildebrandt Park housing development and requested their Church be

able to use the community room at that development and was told there were no written standards for the use of the room, that community groups would use the room and that if the Church used the community room they could feed the housing development residents but were also told “don’t say anything about Jesus” and “don’t bring any Bibles,” however, later in August or early September, 2015, the LHC manager at Hildebrandt communicated through her assistant that the community room could not be used at all for religious activities. Exhibit 1 - Dr. Kue Affidavit.

15. The Church’s meetings held for LHC housing development occupants expressly include the use of the Bible, Bible-based Jesus-centered teaching (including teaching of morals from a religious viewpoint), religious worship, and typically, on a weekly basis, the Church provides a meal for those who attend and approximately 20 to 25 people have attended such meetings at each location.

16. The Church stands ready to pay the LHC’s standard security deposit and fees, if any, for the use of the community room and expressed to LHC its willingness to be flexible in the times on Sunday when the room would be used by the Church.

17. Because of LHC’s refusal to allow the Church to use the community rooms, the Church has been forced to conduct its Sunday religious meetings at Hildebrandt Park in an open-air setting in a vacant field next to a local business

where traffic has interfered with the ability of attendees to hear the religious teaching and, recently a neighbor expressing anti-religious comments chose to start up his 3 lawn mowers and park them running next to the meeting location in an effort to disrupt the meeting and Dr. Kue has experienced headache pain from having to express her religious teaching over the lawnmower noise. Exhibit 1 - Dr. Kue Affidavit.

18. At the LaRoy Froh housing development, the Church has been forced to hold its meetings at an open-air park near the development. Exhibit 1 - Dr. Kue Affidavit.

19. Use of the Church's fixed building location is not feasible for the housing development residents because the Church and the residents lack adequate transportation for the residents to be transported to the Church building and so the Church comes to the residents.

20. Due to oncoming Michigan cold weather, the outside open-air meetings the Church conducts will become difficult and impossible and risk irreparable damage and/or injury to members and attendees who are forced to stand outside in cold or wet weather and some parents of children who had attended prior meetings have already declined to have their children attend some of the outdoor meetings due to cooler weather and the Church has no adequate remedy at law to address this damage or injury. Exhibit 8 – Dr. Kue Affidavit #2.

21. With respect to any children from the LHC housing developments who attend the Church's Sunday meeting, they do so only after express permission to attend, as given by their parents or guardians. Exhibit 1 - Dr. Kue Affidavit.

22. In denying His Healing Hands Church's request for community room use, LHC management had repeatedly told the Church that it had no written rules governing who may use the LHC community rooms or what activities can be engaged in by those who do use it, however, after submission of a Freedom of Information Act request, LHC produced what it claims is a community use regulation that includes a provision that says "No Religious service/programs may be held in the Community Building." Exhibit 9 – Community room regulations (exemplar).

23. The LHC management at both the Hildebrandt and LaRoy Froh housing development facilities have both expressly stated that the Church could not use the room because of its intent to engage in religious activities and the published rules of the LHC, available on its public website, reflect no rules concerning use of the community rooms (though it has since produced a purported regulation banning use of the community rooms for religious services or programs), however, when the Church requested use of the community rooms, the LCH management denied that any written regulation existed, leaving it to LHC's

administration to exercise unfettered standardless discretion in approving or rejecting use of the community rooms for communicative purposes.

24. In September, 2015, the Church's attorney wrote the Lansing Housing Commission representatives detailing the applicable case law requiring them to allow the Church to use the community rooms, with a copy of the letter to one of the managers going to the Executive Director of the Lansing Housing Commission (its chief executive officer and the officer who has "general supervision over the administration of the Commission's affairs, in accordance with the operation, fiscal and personal, and other policies adopted by the Board . . ." and who is responsible to "carry out all policies adopted by the Board." See Exhibit 2 – LHC Bylaws; Exhibit 4 – Letter to Exec. Director and to LaRoy Manager; Exhibit 7 – Letters to Hildebrandt Park Manager.

25. In a letter dated September 21, 2015, LHC's attorney stated that "The Lansing Housing Commission has had a long established policy that no religious services/programs may be held in its community buildings, consequently the Housing Commission is not going to allow His Healing Hands Church to use its community center for religious purposes." Exhibit 6 – LHC Attorney Letter.

COUNT I

Violation of the First Amendment Freedom of Speech and Assembly Clauses

26. Plaintiff incorporates by reference paragraphs one (1) through twenty-five (25) as if repeated herein verbatim.

27. By policy and/or practice, Defendant has created a public forum at its community rooms by permitting use of such rooms by a wide range of community groups to conduct meetings with communicative content.

28. Defendant engaged in content-based discrimination in violation of the First and Fourteenth Amendments to the U.S. Constitution by prohibiting religious Bible-based and Jesus-centered teaching (including teaching of morals from a religious viewpoint), religious worship, and religious services and programs in the forum created by LHC. Defendant has excluded the Church because of the particular religious content of its Sunday meetings.

29. Defendant has engaged in viewpoint discrimination in violation of the First and Fourteenth Amendments to the U.S. Constitution because it allowed other community groups to engage in teaching, teaching of morals, singing, social interaction, ceremonies, and similar expressive activities in the community rooms, but has denied access to the Church because its teaching is Bible-based, Jesus-centered and it engages in religious worship and a religious service/program, while at the same time LHC openly advertises that it allows its facilities to be used for

other religiously-based community groups such as the Boy Scouts and Girl Scouts and by practice it allows use of the community rooms by other religious groups whose meetings include religious teaching, singing of religious songs, social interaction, and similar expressive activities.

30. In violation of the Civil Rights Act of 1866, 42 U.S.C. § 1983, Defendant LHC has acted under color of state law to deprive Plaintiff, the Church, of its rights to freedom of speech and freedom of assembly, guaranteed under the First and Fourteenth Amendments to the U.S. Constitution.

COUNT II
Violation of the Equal Protection Clause

31. Plaintiff incorporates by reference paragraphs one (1) through thirty (30) as if repeated herein verbatim.

32. Defendant LHC's policy and practice of allowing use of the community rooms by non-religious community groups and other religious groups with whom it agrees and who do not engage in religious worship or religious services/programs and do not engage in religious teaching with which it disagrees, while excluding Plaintiff Church's religious worship, religious services/programs and religious teaching (including teaching of morals from a religious viewpoint), violates the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution.

33. Defendant LHC bases its exclusion on a suspect classification (religion) and infringes on fundamental rights (freedom of speech, assembly, and free exercise of religion). Because the exclusion against Bible-based, Jesus-centered religious teaching (including teaching of morals from a religious viewpoint), religious worship and religious services/programs is based on a suspect classification and infringes on fundamental rights, it violates the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution.

34. Defendant LHC's actions were taken under color of state law and are in violation of the Civil Rights Act of 1866, 42 U.S.C. Section 1983.

COUNT III
Violation of the Free Exercise of Religion Clause

35. Plaintiff incorporates by reference paragraphs one (1) through thirty-four (34) as if repeated herein verbatim.

36. Plaintiff Church and its members have evangelical Christian beliefs, including sincere religious beliefs about meeting together weekly on Sundays for Biblical, Jesus-centered teaching (including teaching of morals from a religious viewpoint), singing religious songs, social interaction, and mutual encouragement of other members and attendees of the Church; these religious beliefs of the Church members and attendees are burdened by Defendant LHC's policy and

practice that singles out religious worship services, religious services/programs, and Bible-based, Jesus-centered religious teaching from that forum.

37. Defendant, as a state action, has a constitutional duty to accommodate sincerely-held religious beliefs of individuals and groups. Defendant LHC has not accommodated Plaintiff's religious beliefs, has burdened those religious beliefs by excluding groups that desire to conduct religious worship services and religious programs and engage in Bible-based Jesus-centered religious teaching in the community rooms during times they are available for public use. Defendant LHC lacks a compelling state-interest to justify this burden on Plaintiff's religious beliefs, and Defendant is not using the least burdensome means to satisfy its state interest, which violates Plaintiff's right to free exercise of religion, as guaranteed under the First and Fourteenth Amendments to the U.S. Constitution.

38. Defendant LHC's burden on Plaintiff's religious beliefs is done under color of law, in violation of the Civil Rights Act of 1866, 42 U.S.C. § 1983.

COUNT IV
Violation of the Establishment Clause

39. Plaintiff incorporates by reference paragraphs one (1) through thirty-eight (38) as if repeated herein verbatim.

40. By allowing other community groups to meet in the community rooms, but excluding religious worship services, religious services/programs and

Bible-based and Jesus-based religious teaching (including teaching of morals from a religious viewpoint), Defendant LHC has violated the Establishment Clause of the First Amendment as incorporated through the Fourteenth Amendment of the U.S. Constitution. The Establishment Clause requires government to treat religion in a neutral fashion. By singling out religious worship services, religious services/programs, and Bible-based and Jesus-centered religious teaching for exclusion and allowing certain religious groups to use the community rooms and not others, Defendant treats some religious groups worse than other groups, which violates the constitutional requirement of governmental neutrality toward religion.

41. The Establishment Clause of the United States Constitution does not compel the Defendant's policy and practice to exclude religious worship services, religious services/programs or Bible-based, Jesus-centered religious teaching from the community rooms.

42. Defendant's actions were taken under color of state law, and are in violation of the Civil Rights Act of 1866, 42 U.S.C. § 1983.

Prayer of Relief

WHEREFORE, Plaintiff requests judgment against Defendant LHC for the following:

Injunctive Relief

Plaintiff does not have an adequate remedy at law, so the Plaintiff seeks injunctive relief against Defendant, ordering them and their personnel, agents and all those acting in concert with them to do the following:

1. Enjoin Defendant LHC to immediately permit Plaintiff Church to meet in its community rooms for meetings containing religious teaching, including but not limited to, Bible-based, Jesus-centered teaching (including teaching of morals from a religious viewpoint), religious worship, religious services and programs, on the same terms and conditions as all other community groups, absent any religion-based exclusions.
2. Enjoin Defendant from excluding religious teaching, including but not limited to, Bible-based, Jesus-centered teaching (including teaching of morals from a religious viewpoint) and from excluding religious worship, religious services and programs from Defendant's community rooms, except on the same terms and conditions that apply to other community groups, absent any religion-based exclusions.

Declaratory Relief

Plaintiff Church further requests the following declaratory relief:

1. Declare that Defendant engaged in viewpoint discrimination against Plaintiff in violation of the Freedom of Speech and Freedom of Assembly clauses, contrary to the First and Fourteenth Amendments of the U.S. Constitution.
2. Declare that Defendant LHC engaged in content discrimination against Plaintiff Church in violation of the Freedom of Speech and Freedom of Assembly clauses, contrary to the First Amendment of the U.S. Constitution as incorporated through the Fourteenth Amendment of the U.S. Constitution.
3. Declare that Defendant's denial of community room use to Plaintiff because of the religious content of its meetings while at the same time approving such use for other community groups, including other religious community groups violated the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution.
4. Declare that Defendant's denial of Plaintiff's use of the community room based on the religious content of Plaintiff's religious meetings violated Plaintiff's free exercise of religion under the First and Fourteenth Amendments of the U.S. Constitution.
5. Declare that Defendant's denial of Plaintiff's use of the community rooms based on the religious content of its meeting while granting

such use to other religious and non-religious community groups violated the Establishment Clause, in violation of the First and Fourteenth Amendments of the U.S. Constitution.

Damages

Plaintiff Church seeks damages from Defendant LHC in the amount of \$10.00 (Ten Dollars) for the damages it suffered for the denial of its constitutional rights in this case.

Attorneys' Fees and Other Relief

For Plaintiff's reasonable attorneys' fees, as provided for by 42 U.S. § 1988, for Plaintiff's costs and such other and further relief as the Court deems just and right.

Respectfully submitted,

RICKARD, DENNEY, GARNO & ASSOC.

Dated: October 14, 2015


By: /s/ Timothy W. Denney
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VERIFICATION AFFIDAVIT

STATE OF MICHIGAN)
COUNTY OF ~~LAPEER~~)
Ingham

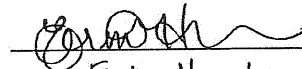
I, Dr. Eleanore Kue, being duly sworn upon oath, hereby deposes and says:

- 1. I am the pastor for His Healing Hands Church, the Plaintiff, and am authorized to speak on its behalf.
- 2. To the best of my knowledge, all of the factual allegations in this Complaint are true and correct.


Dr. Eleanore Kue

State of Michigan)
) ss
County of Ingham)

On this 14 day of October, 2015, before me personally appeared Dr. Eleanore Kue to me known to be the person described in and who executed the foregoing instrument and acknowledged that she executed the same as her free act and deed.


Erin Hunt, Notary Public
State of Michigan, County of Ingham
My Commission Expires: 3-27-19
Acting in the County of Ingham

