

IN THE CIRCUIT COURT IN THE 15TH
JUDICIAL CIRCUIT IN AND FOR PALM BEACH
COUNTY, FLORIDA

CASE NO.: 502022CA003848XXXXMB (AH)

RELIGIOUS SCIENCE UNLIMITED, INC, a
Florida Not for Profit corporation,

Plaintiff,

vs.

CITY OF BOCA RATON, a Florida municipal
corporation,

Defendant.

AMENDED COMPLAINT FOR DECLARATORY RELIEF

Plaintiff, RELIGIOUS SCIENCE UNLIMITED, INC., a Florida not-for-profit corporation ("Applicant"), files it's Amended Complaint for Declaratory Relief against the Defendant, CITY OF BOCA RATON, a Florida municipal corporation ("City"), and states:

I. Background

A. Jurisdiction/Parties/Venue

1. Applicant is a Florida not-for-profit corporation with its principal place of business in Palm Beach County, Florida.
2. City is a Florida municipal corporation organized and existing under the laws of the State of Florida located in Palm Beach County.
3. Venue is appropriate in Palm Beach County because:
 - a. The City is a municipal corporation located in Palm Beach County.
 - b. Applicant's principal place of business is located in Palm Beach County.
 - c. The Property involved is located in Palm Beach County.
4. This is an action pursuant to Florida Statutes Chapter 86 for declaratory (and other

supplementary) relief involving real property as well as rights and issues therein in an amount which exceeds this Court's \$30,000 jurisdictional amount.

5. The present case seeks the reinstatement of the Applicant's Development Application ("Application")¹ as it existed before it was wrongfully deemed "abandoned", "invalid" and "terminated" by the City and the City changed its Comprehensive Plan.

B. Factual Background

6. The Applicant owns the property located at 2 SW 12th Avenue, Boca Raton Florida 33432 ("Property") which is presently used as a church and formerly as a daycare as well.

7. The Applicant is seeking authorization to demolish the church and day care to construct an assisted living facility ("ALF") on the Property (the "Project"), which was permitted under the City's Comprehensive Plan as of the initial filing of the present case.²

8. The Application was a recognized, permitted method of changing the text of the City's Land Development Regulations (LDRs) to allow an ALF in the R-D-1 residential zoning district in which the Property is located.

9. The Application was sponsored by City Council Member Mayotte who but for the City's improper "termination" thereof would continue to sponsor the Application.

10. Prior to the Application's submittal, the Applicant met with City Staff on no less than three occasions and received multiple assurances that a Comprehensive Plan amendment was not needed to process its Application.

11. These assurances were repeated in a pre-application meeting as well as in various documents by the City.

¹ While the Applicant has a series of City Case File Nos. (CA-21-03; SPA-21-06; and AM-21-07) they have been treated by the City (and will be referred to herein) as one "Application."

² The City has since changed the text of the Comprehensive Plan in an attempt to disrupt the Applicant's Application.

12. Relying in good faith upon the affirmative actions and representations of the City Staff both in words and deeds, the Applicant incurred the major obligations and expenses of submitting a Site-Specific Application and legislative LDR text amendment to allow ALFs in the R-D-1 district on May 24, 2021.

13. In doing so, the Applicant had, along with the right of every citizen, a reasonable expectation that it would be dealt with fairly by the City.

14. At no point during the lengthy process was the Applicant ever advised by the City that a Comprehensive Plan amendment would be needed for the Project. To the contrary, in an August 27, 2021 public record e-mail to the City Manager, the City Staff once again reiterated “no comp plan amendment is required” for the Project.

15. Many months later, after the Applicant reasonably relied upon the City’s assurances and committed considerable expenditures, the City (despite knowing that the City Staff had led the Applicant to file its Application) suddenly changed its position and asserted for the first time that a Comprehensive Plan amendment was needed as part of the Application.

16. The City’s reverse in course came from a suspicious about face in “policy” by the City in which it suddenly no longer wanted ALF’s in the RL Low Density land use category as set forth in an eight (8) page Staff Report. The report and arguments therein were not provided to or discussed with the Applicant so that it could have input prior to committing substantial time and resources to its Application.

17. Nevertheless, the Applicant reviewed, rebutted, and debunked each of the arguments in the Staff Report, demonstrated the basis and arguments in the Report were improper and an amendment to the Comprehensive Plan was not necessary for its Application.

18. As a result, the Applicant resubmitted its Application on February 23, 2022, without

a Comprehensive Plan amendment, which was sponsored by Council Member Mayotte.

19. Rather than process the Application, the City Staff reviewed the Application and unilaterally deemed it unworthy of going forward and being processed.

20. Under such circumstances, if there were any questions (much less outright dispute and rebuttal by the Applicant) as to whether the Application required a Comprehensive Plan amendment, the Application should have been forwarded to the development services department for the setting of public hearings by the Planning and Zoning Board ("PZB") and the City Council, not decided by the City Staff.

21. Instead, by way of letter dated March 1, 2022 ("Termination Letter"), relying on its changed position that the Application required a Comprehensive Plan Amendment, the City unilaterally deemed the Application "incomplete," "abandoned" and "null void" for the failure to include such a Comprehensive Plan amendment. As a result, the City did not allow the Application to move forward to PZB and City Council for any consideration.

22. The City has since relied on its own improper termination of the Application to (repeatedly) assert that the Application no longer exists and cannot be reviewed by the City and/or this Court despite its violation of the City Code.

23. The result is that the City Staff's actions, including its prior deliberate, affirmative assurances and conduct in word and deed caused a serious injustice to the Applicant which would be inequitable and unjust to perpetuate.

24. At the same time, to add insult to injury, after improperly "abandoning" the Application in its Termination letter, the City took action to amend its Comprehensive Plan in a manner which would ensure the Applicant could no longer be able to place an ALF on its Property by making ALF's no longer a permissible use in the RL zoning category.

II. Count I - Declaratory Relief

25. Applicant sues the City for Declaratory (and other supplemental) Relief under Chapter 86 of the Florida Statutes, realleges and incorporates paragraphs 1 to 24 as if set forth more fully herein and states:

26. In light of the above, as the owner of the Property seeking an ALF to be constructed on the Property, the Applicant has a bona fide, actual, present practical need for a declaration regarding its rights.

27. In doing so there exists a present ascertained or ascertainable state of facts and present controversy as to a state of facts that its immunity, power, privilege, or rights as the owner of the Property to proceed under or have the Application reinstated after its rights were violated.³

28. The person or persons who have or reasonably have an actual, present, adverse, and antagonistic interest in the subject matter, either in fact or law, are all before the Court by proper process and the relief sought as to the reinstatement of the Application is not mere giving of legal advice or the answer to a question propounded from curiosity.

29. The Applicant seeks a declaration from the Court reversing the City's unilateral determination that the Application requires a Comprehensive Plan amendment, or, to the extent necessary, requiring the Application to be presented to the PZB and/or City Council, determining that any recent changes to the Comprehensive Plan do not apply to it, and placing the Application back in the same position it occupied prior to the City's actions.

30. While the Applicant believes the City Code, the LDR's and the Comprehensive Plan demonstrate that no Comprehensive Plan amendment was needed to process its Application,

³ The Applicant's dispute is based upon the City's improper failure to process the Application not a claim that the City or Court must ultimately approve the Application. As such, all of the facts necessary for the Court to make a determination as to the present controversy have occurred and are before the Court as set forth herein.

in light of the City's position and its actions it is in doubt as to its rights and interpretations, creating the present dispute which it seeks the Court to resolve.

31. The Applicant does not have an adequate remedy in law to address this matter.
32. All conditions precedent to the filing of this action have been satisfied.

WHEREFORE, the Applicant requests that the Court enter a Final Judgment against the City declaring as follows:

- a. On its face, the Application did not require a Comprehensive Plan amendment.
- b. To the extent there was any ambiguity, the City improperly failed and refused to forward the Application for consideration to the PZB and/or City Council for a determination as to whether the Application is consistent with the City's Comprehensive Plan or required an amendment.
- c. The City improperly deemed the Application to be "abandoned", expired" and/or "null and void" due to the lack of a Comprehensive Plan amendment.
- d. The Application must be properly processed by the City in the same position it occupied prior to the City's actions.
- e. The City improperly used its Staff Report to advance its own change in "policy" to thwart rather than properly assess the Application.
- f. The City is prevented from claiming that the Application requires a Comprehensive Plan amendment and refusing to process the Application due to its own actions in deed and word and representations which the Applicant relied upon in good faith and incurred extensive obligations and expenses in a manner which caused a serious injustice to the Applicant which would be inequitable and unjust to perpetuate.
- g. The City improperly used the Termination Letter (and purported lack of a pending Application) as a basis for approval of its own Comprehensive Plan amendment designed to deny the Applicant any ability to apply for an ALF on the Property in the future.
- h. The Applicant is entitled to be placed in the position it previously held prior to the City's determination that the Application required a Comprehensive Plan amendment and is not subject to any subsequent changes which may have been made by the City to the Comprehensive Plan.

- i. Declaring the City cannot force the Applicant to file a Comprehensive Plan amendment and/or argue that the Application is not permitted under the subsequently revised terms of the Comprehensive Plan.
- j. Such other and further and/or Supplemental Relief as it appropriate.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 19th day of September 2022, the foregoing document was electronically filed with the Clerk of the Court and furnished upon all registered users, on the Service List below, via the Florida Courts e-Filing Portal.

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