

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

CATHOLIC HEALTHCARE  
INTERNATIONAL, INC. and  
JERE PALAZZOLO,

Plaintiffs,

v.

GENOA CHARTER TOWNSHIP,  
and SHARON STONE, individually  
and in her official capacity as  
Ordinance Officer, Genoa Charter  
Township,

Defendants.

No.

**COMPLAINT**

[DEMAND FOR JURY TRIAL]

Plaintiffs Catholic Healthcare International, Inc. (“CHI”) and Jere Palazzolo (collectively referred to as “Plaintiffs”), by and through undersigned counsel, bring this Complaint against Defendants Genoa Charter Township (also referred to as the “Township”) and Sharon Stone (collectively referred to as “Defendants”), and in support thereof allege the following upon information and belief:

**INTRODUCTION**

1. Places of religious worship, such as CHI’s proposed St. Pio Chapel and prayer campus, hold a special place in America—a nation that was founded by religious refugees in search of religious freedom. Defendants’ rejection of Plaintiffs’ right to religious worship on CHI’s private property as set forth in this Complaint is

not in keeping with our proud tradition of accommodating people of faith. And it is contrary to the demands of the United States Constitution, the Michigan Constitution, and federal statutory law.

2. This case seeks to vindicate fundamental constitutional and statutory rights. It is a civil rights action brought pursuant to the First and Fourteenth Amendments to the United States Constitution, 42 U.S.C. § 1983, the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 2000cc *et seq.* (“RLUIPA”), and the Michigan Constitution, challenging the unconstitutional acts, policies, practices, and/or customs of Defendants.

3. Plaintiffs seek a declaration that Defendants violated their clearly established rights as set forth in this Complaint; a declaration that the zoning laws of Genoa Charter Township and the Township’s application of those laws as set forth in this Complaint unlawfully restrict CHI’s use and enjoyment of its property for religious purposes and the free exercise of Plaintiffs’ religion in violation of the United States and Michigan Constitutions and RLUIPA; a declaration that through the enforcement and attempted enforcement of the Township zoning laws, Defendants have substantially burdened and unlawfully infringed upon Plaintiffs’ rights to religious exercise, religious expression, and expressive association in violation of the United States and Michigan Constitutions and RLUIPA; a permanent injunction enjoining the unlawful enforcement of the Township zoning laws and the

unlawful acts, policies, practices and/or customs of Defendants as set forth in this Complaint; and nominal and compensatory damages for the harm caused by Defendants. Plaintiffs also seek an award of their reasonable costs of litigation, including attorneys' fees and expenses, pursuant to 42 U.S.C. § 1988, RLUIPA, and other applicable law.

### **JURISDICTION AND VENUE**

4. This action arises under the First and Fourteenth Amendments to the United States Constitution, 42 U.S.C. § 1983, RLUIPA, and the Michigan Constitution. Jurisdiction is conferred on this Court pursuant to 28 U.S.C. §§ 1331 and 1343. This Court has supplemental jurisdiction over the state law claims in this case pursuant to 28 U.S.C. § 1367(a).

5. Plaintiffs' 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 Procedure, and by the general legal and equitable powers of this Court.

6. Plaintiffs' claim for damages is made pursuant to 42 U.S.C. § 1983, RLUIPA, and other applicable law.

7. Venue is proper under 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in this district.

### **PARTIES**

8. Plaintiff Catholic Healthcare International, Inc. ("CHI") is a nonprofit

corporation incorporated under the laws of the State of Missouri. It is a tax-exempt organization under § 501(c)(3) of the Internal Revenue Code.

9. CHI is formally recognized as a private association of the faithful by the Catholic Diocese of Lansing, Michigan.

10. The activities and work of CHI as set forth in this Complaint are religious exercise and religious expression protected by the United States and Michigan Constitutions and federal statutory law.

11. Plaintiff Jere Palazzolo is a citizen of the United States and the Chairman, President, and Director of CHI.

12. Plaintiff Palazzolo engages in religious exercise and religious expression through the activities and work of CHI. Plaintiff Palazzolo's religious exercise and religious expression are protected by the United States and Michigan Constitutions and federal statutory law.

13. Defendant Genoa Charter Township ("Township") is a charter township located in Livingston County, Michigan. The Township is a municipal entity organized and existing under the laws of the State of Michigan. It is a municipal corporation with the right to sue and be sued.

14. The Township and its officials, including the Genoa Charter Township Board ("Township Board"), are responsible for creating, adopting, approving, ratifying, and enforcing the decisions, laws, policies, practices, customs, and/or

procedures of the Township as set forth in this Complaint.

15. The Township Board is the final decision maker for the Township on special land use applications, specifically including the special land use application submitted by CHI as set forth in this Complaint.

16. The Township, through its officials, including Defendant Sharon Stone, enforces the Genoa Township Zoning Ordinance (“Zoning Ordinance”) as set forth in this Complaint.

17. The Township’s decisions, laws, policies, practices, customs, and/or procedures were the moving force behind the constitutional and statutory violations set forth in this Complaint.

18. At all relevant times, the Township trained, supervised, and employed Defendant Stone, the Township’s Ordinance Officer.

19. The Township’s deficient training and supervision of Defendant Stone were done with deliberate indifference as to their known or obvious consequences and were a moving force behind the actions that deprived Plaintiffs of their fundamental constitutional and statutory rights as set forth in this Complaint.

20. At all relevant times, Defendant Stone was the Ordinance Officer for the Township. As the Ordinance Officer, Defendant Stone is responsible for enforcing the Township’s Zoning Ordinance, which includes the Sign Ordinance, as set forth in this Complaint.

21. At all relevant times, Defendant Stone was an agent, servant, and/or employee of the Township, acting under color of state law. Defendant Stone is sued individually and in her official capacity.

### **STATEMENT OF FACTS**

22. CHI is formally recognized as a private association of the faithful through a decree issued on or about August 4, 2020, by the Most Reverend Earl Boyea, Bishop of the Roman Catholic Diocese of Lansing, Michigan (“Bishop Boyea”).

23. In the decree, Bishop Boyea stated: “Thus, after having reviewed their statutes (can. 299 § 3) and finding their efforts praiseworthy (cann. 298 § 2, 299 § 2), observing that their exercise of the apostolate is designed to promote the works of piety, to increase the exercise of charity, and to animate the temporal order with a Christian spirit (can. 298 § 1), upholding before their eyes the heroic virtues of Saint Pius of Pietrelcina [Saint Padre Pio] as their model and pattern, I give my consent for them to be designated ‘Catholic’ in accord with the norms of law (cann. 216, 300), and I recognize the organization called CATHOLIC HEALTHCARE INTERNATIONAL (CHI) as a private association of the faithful.”

24. CHI’s objective is to be a model of Christian healthcare delivery and medical education based on the “Work” of St. Padre Pio: a “Clinic for the Soul” for all in need; and to provide training and support to professionals of existing and

developing hospitals, healthcare systems, medical schools, clinics, and physician practices desiring to participate in the fullness of its ministry. In the example of St. Padre Pio, *this work is first built upon an extensive foundation of prayer by faithful Catholic supporters*. Accordingly, prayer is an essential part of—indeed, it is the very foundation for—the important work of CHI. Accordingly, the construction of the St. Pio Chapel and prayer campus, as set forth in this Complaint, is essential to the work of CHI.

25. The work of CHI is the work of the faithful, and it is religious exercise.

26. On or about October 20, 2020, the Diocese of Lansing (“Diocese”), through Bishop Boyea as the grantor, conveyed to CHI via warranty deed approximately 40 acres of property located in the Township. The property is located at 3280 Chilson Road (“CHI Property”).

27. The Diocese originally acquired the property with the expectation of building a church on it since the Zoning Ordinance allows places of religious worship on this property upon special land use approval.

28. Upon acquiring the CHI Property, Plaintiffs had a reasonable expectation of being able to use the property for religious purposes, including for the purpose of constructing and developing the St. Pio Chapel and prayer campus.

29. As the owner of the CHI Property, CHI intends to use this property to exercise its fundamental rights to the free exercise of religion, the freedom of speech,

and religious assembly, including using this property for prayer, worship, Mass, and eucharistic adoration.

30. The CHI Property is zoned Country Estate (“CE”) by the Township.

31. Section 3.03 (Permitted and Special Land Uses) of the Township Zoning Ordinance contains a “List of Uses” for residential districts, which includes property zoned CE.

32. Pursuant to the Zoning Ordinance, the Township permits “[p]ublicly owned parks, parkways, scenic and recreational areas, and other public open spaces” and “[p]rivate non-commercial parks, nature preserves and recreational areas owned and maintained by a home-owners association” on property zoned CE.

33. In fact, the Township operates a park just 3 miles east of the CHI Property. This park is on a parcel of land that is smaller (38 acres) than the CHI Property (40 acres). The park includes two playgrounds, a water misting feature, a sled hill, a .66-mile walking path, two regulation sized athletic fields, a swing set for all ages, picnic tables, and a pavilion with accessible heated bathrooms and warming area. This park is supported by more than 200 parking spaces.

34. This very park with its 200 plus parking spaces—whether constructed by the Township or as a “private non-commercial park . . . owned and maintained by a home-owners association”—could be constructed on the CHI Property without requiring any special land use approval. Such parks are a permitted use under the



Zoning Ordinance. However, as set forth in this Complaint, Plaintiffs’ religious “park” was denied by Defendants under the Zoning Ordinance.

35. Also located within the Township is a park (Fillmore County Park) with a “Leopold the Lion Reading Trail.” This “Reading Trail” contains large signs installed along a trail, as depicted in the photograph below. Per the website, “This fifteen-part Reading Trail takes you through the entire story [of Leopold the Lion] with fun questions/activities to do along the way.” (<https://www.howellrecreation.org/events/readingtrail>). This “Reading Trail” is permitted by the Township.



**Leopold the Lion Reading Trail - Available  
Now At Fillmore County Park!**

36. The Township permits a “Sculpture & Poetry Walk” on private property located within the Township. This “sculpture and poetry walk” contains numerous and large sculptures and other secular displays, including signs displaying poetry. The Sculpture & Poetry Walk hosts regular events, from open houses to poetry readings to individual artist shows. Additionally, it holds poetry competitions and open submission periods for poetry for the art walk.

37. Pursuant to the Zoning Ordinance, the Township permits “[f]arms”; “[t]ree and sod farms, greenhouses, nurseries and similar horticulture enterprises without sales on the premises, however, Christmas tree sales shall be permitted” on property zoned CE.

38. Pursuant to the Zoning Ordinance, the Township permits “[s]toring, packaging and processing of farm produce” on property zoned CE.

39. Pursuant to the Zoning Ordinance, the Township permits “[a]ccessory roadside stands and commercial cider mills selling only produce grown on the premises” on property zoned CE.

40. Pursuant to the Zoning Ordinance, the Township permits “[e]ssential public services” on property zoned CE. Plaintiffs’ proposed St. Pio Chapel and prayer campus, as set forth in this Complaint, will provide essential religious services.

41. Pursuant to the Zoning Ordinance, “[c]hurches, temples and similar places of worship” are allowed on all residential property in the Township, including property zoned CE, after special land use approval.

42. In order to exercise their religion, which includes religious speech and assembly, and to further the religious mission and vision of CHI as a private association of the faithful, Plaintiffs want to fully develop the CHI Property into a prayer campus, which would include an adoration chapel (the St. Pio Chapel), prayer

trails, a small outdoor altar, and the display of religious images, icons, and symbols, including Stations of the Cross, religious statues, and the display of the image of Santa Maria delle Grazie (“Our Lady of Grace”).

43. A photograph of a Station of the Cross that is currently located on the CHI Property appears below:



44. This Station of the Cross is smaller than some birdhouses that the Township allows on private property without any special permit requirements or fees. Below is a photograph of a birdhouse located within the Township:



45. Located on the CHI Property were numerous (approximately 8 or more) tree stands that people in the local community erected and used for hunting deer for many years. These tree stands are much taller “structures” than any of the religious symbols on the CHI Property. Defendants have never complained about the presence of these tree stands on the property.

46. The Stations of the Cross displayed on the CHI Property are set into a sleeve in the ground so they can be easily moved for maintenance and repairs or for other reasons. They are not permanently affixed.

47. The Stations of the Cross are a fourteen-step Catholic devotion that commemorates the Passion of Jesus Christ. The fourteen devotions, or stations, focus on specific events of His last day, beginning with His condemnation.

48. The Stations of the Cross are commonly used as a mini pilgrimage as the individual moves from station to station. At each station, the individual recalls and meditates on a specific event from Christ’s last day. Specific prayers are recited, then the individual moves to the next station until all fourteen are complete.

49. Photographs of the display of the image of Santa Maria delle Grazie and the small altar, which are currently located on the CHI Property, appear below:



50. Neither the Stations of the Cross nor the image of Santa Maria delle Grazie are viewable from a public street or sidewalk. The CHI Property is rural and wooded, and it will be maintained as a rural and wooded property by Plaintiffs.

51. The Stations of the Cross and the image of Santa Maria delle Grazie have been displayed on the CHI Property since October 2020.

52. The adoration chapel (“St. Pio Chapel”) planned for the CHI Property will be a modest, 95 seat, 6,090 square foot chapel/church with an associated parking lot, site lighting, and building lighting. The parking lot will contain only 39 parking spaces.

53. The St. Pio Chapel will contain a tabernacle, which is a liturgical furnishing used to house the Eucharist outside of Mass.

54. A tabernacle provides a safe location where the Eucharist can be kept for the adoration of the faithful and for later use. Canon Law requires a tabernacle to be in a secure location, such as the St. Pio Chapel, because it helps prevent the profanation of the Eucharist.

55. As taught by the Catholic Church, the Eucharist is the Body, Blood, Soul, and Divinity of Our Lord Jesus Christ, that united in His one Divine Person is really, truly, and substantially present. The Catholic Church describes the Eucharist as the source and summit of the Christian life.

56. Without the St. Pio Chapel, there could be no tabernacle on the CHI Property. And without the tabernacle, the Eucharist could not be kept on the CHI Property.

57. Without the St. Pio Chapel, Plaintiffs are unable to carry out a core

function of their religious activities.

58. Plaintiffs do not have access to other properties close to the CHI Property that would permit them to carry out their religious activities.

59. There are residences within the Township, including residences on property zoned CE, that are the same size as, or larger than, the proposed St. Pio Chapel.

60. There are accessory structures and buildings on property within the Township, including on property zoned CE, that are the same size as, or larger than, the proposed St. Pio Chapel.

61. At times, more people will attend a graduation party, a football party, or other permitted secular events in the Township, including such events held on property zoned CE, than will visit the CHI Property or the St. Pio Chapel when at full capacity.

62. There are two protestant churches located near the CHI Property. Chilson Hills Church is approximately 2.1 miles south of the CHI Property. It is located at the intersection of Brighton Road and Chilson Road. This property is zoned SR (Suburban Residential). Liberty Baptist Church is approximately 3.0 miles north of the CHI Property, and it too is located on Chilson Road. This property is zoned SR (Suburban Residential). Accordingly, both of these churches are located on property zoned residential, thereby requiring special land use approval by the



Township.

63. As a matter of fact, the CHI Property is compatible with and suitable for the development of a place of religious worship, specifically including the construction and development of the proposed St. Pio Chapel and prayer campus.

64. The development of the St. Pio Chapel and prayer campus is harmonious and consistent with adjacent land uses. It is harmonious and consistent with maintaining the peaceful, rural nature of the property.

65. The St. Pio Chapel will be a place where people can come to pray, attend Mass, and adore Jesus Christ in the Eucharist. The prayer campus is not a high-volume site. It is a place where people can come and walk the trails and pray. One trail, for example, will allow visitors to pray the Stations of the Cross described above. The proposed development will retain the rural atmosphere of the area, and it will promote the quality of life.








66. The St. Pio Chapel will be approximately 600 feet off of Chilson Road. Plaintiffs are preserving most of the property to allow for trails on the property and to allow people to find peace in the natural surroundings. Plaintiffs are only building on approximately 5 acres of the 40-acre lot, and this development is largely in the open area of the site. In other words, Plaintiffs' proposed development will maintain the rural character of the property.

67. The modest size of the chapel and the limited parking will necessarily



limit the number of people who visit the religious property, and Plaintiffs, like other property owners in the Township, will abide by the relevant occupancy and parking restrictions. The Township cannot (nor should they be permitted to) discriminate against, nor treat disparately, Plaintiffs in this regard.

68. The Livingston County Road Commission routinely conducts traffic counts throughout the county. They have a traffic count station located on Chilson Road between Latson Road and Crooked Lake Road intersections (the same stretch of road where the CHI Property is located). A snapshot below shows the traffic counts for the dates in which a count was conducted. As the table below shows, the total daily counts between 2002-2012 were averaging approximately 5,055 cars per day, while between 2014-2019, the counts were averaging approximately 2,542 cars per day. It should be noted that the construction of the Latson Road interchange to I-96 began in the Fall of 2012 and was completed by the end of 2013. The daily car count over these two spans of years shows that the average daily traffic was nearly cut in half after the construction of the Latson Road interchange was completed.

VOLUME COUNT			
	Date	Int	Total
	Tue 5/28/2019	60	2,635
	Wed 7/13/2016	60	2,422
	Wed 5/28/2014	60	2,569
	Tue 4/24/2012	60	4,505
	Mon 6/29/2009	60	5,027
	Thu 5/11/2006	60	5,361
	Mon 4/29/2002	60	5,330

69. A traffic study was not required for the proposed development of the CHI Property as the proposed use of the property did not meet the threshold traffic generated to require such a study. As noted, the proposal has only 39 parking spaces.

70. The negligible traffic caused by the proposed St. Pio Chapel and prayer campus will have little to no overall impact, and Chilson Road has been shown to handle much larger traffic volumes in the past.

71. The Fire Marshall also confirmed that Plaintiffs' proposed development satisfies all of the requirements for emergency vehicle access.

72. CHI hired Boss Engineering, a local and reputable engineering firm, to prepare and submit the application for special land use and associated site plan and environmental impact statement to the Township for approval of the proposed construction of the St. Pio Chapel and prayer campus on the CHI Property. The application and supporting documents met or exceeded the requirements for special land use as set forth in the Zoning Ordinance.

73. On or about December 23, 2020, CHI, through Boss Engineering, submitted its special land use application and documentation for the St. Pio Chapel and prayer campus (hereinafter "Original Submittal") to the Township. This submission included a special land use application, environmental impact assessment, and site plan. A true and correct copy of the Original Submittal is attached to this Complaint as Exhibit 1 and incorporated herein by reference.

74. The Township, through its Planner and consultants, reviewed the Original Submittal and sent back comments to Boss Engineering for revisions.

75. CHI, through Boss Engineering, made the requested revisions, and the application was scheduled for review by the Township Planning Commission at a public meeting scheduled for on or about February 8, 2021. The Planning Commission meeting ended with the commissioners tabling the matter and offering additional comments regarding issues that they wanted CHI to address and include in a resubmittal.

76. CHI, through Boss Engineering, made the requested changes and resubmitted for approval by the Planning Commission the application and supporting documents (hereinafter “Resubmittal”) on or about February 16, 2021. A true and correct copy of the Resubmittal is attached to this Complaint as Exhibit 2 and incorporated herein by reference.

77. The February 16, 2021 cover letter from Boss Engineering that is included in the Resubmittal outlines the requested changes made to the proposed development. Also included with the Resubmittal was an “operations manual . . . to illustrate more clearly the vision for uses and activity on the site.”

78. On or about March 8, 2021, the Township Planning Commission held a public meeting to consider CHI’s special land use application (*i.e.*, the Resubmittal). The Township Planning Commission recommended approval to the

Township Board of the site plan, environmental impact statement, and special land use application. The Planning Commission approved the application by a vote of 4 to 3. Minor changes were suggested by the Planning Commission as part of its motion to approve CHI's application. A true and correct copy of the Approved Minutes of the March 8, 2021 Township Planning Commission Meeting is attached to this Complaint as Exhibit 3 and incorporated herein by reference.

79. During this public hearing by the Township Planning Commission, Mr. Chris Grajek, the Chairman of the Planning Commission, noted, as set forth in the Approved Minutes, that Plaintiffs "met all of the requests made by the Planning Commission." The Chairman further noted that Plaintiffs "have gone above and beyond and addressed all of the concerns of the Planning Commission and the consultants."

80. CHI, through Boss Engineering, made the changes suggested by the Planning Commission during the March 8, 2021 meeting and finalized its application ("Final Submission") for submission to the Township Board for final approval. A true and correct copy of the Final Submission is attached to this Complaint as Exhibit 4 and incorporated herein by reference.

81. CHI's application for special land use does not require a variance to the Township's zoning laws. CHI's application met or exceeded the requirements and standards set forth in the Zoning Ordinance. Indeed, CHI was willing to, and did,

make all of the Planning Commission's suggested changes and modifications to its application. In fact, CHI was willing to reduce its proposed use of the St. Pio Chapel bell per the Township's request even though its proposed use did not violate any Township ordinance.

82. On or about May 3, 2021, the Township Board held a public hearing to consider the Final Submission.

83. During the meeting, CHI's special land use application, environmental impact statement, and site plan for CHI's proposed development of the St. Pio Chapel and prayer campus (collectively the Final Submission) were each denied by a 5 to 2 vote.

84. The reasons for the Township's denial of CHI's proposed development of the St. Pio Chapel and prayer campus (Final Submission) are set forth in the Minutes for this meeting. A copy of the Draft Minutes of the Genoa Charter Township Board meeting of May 3, 2021 is attached to this Complaint as Exhibit 5 and incorporated herein by reference. It is expected that these minutes will be approved (and thus become final) during the June 7, 2021 meeting of the Township Board.

85. The Township's denial of the Final Submission was not based on any measurable, objective criteria. Plaintiffs' proposed development of the CHI Property met or exceeded all such criteria set forth in the Zoning Ordinance. Rather,

the Township's denial was based upon amorphous, subjective considerations that were contrary to the facts and which permit an anti-religious/anti-Catholic animus to drive the Township's decision.

86. The Township's denial of Plaintiffs' application to construct and develop the St. Pio Chapel and prayer campus on the CHI Property (*i.e.*, the denial of the Final Submission) is a final decision causing substantial harm to Plaintiffs, including causing a substantial burden on Plaintiffs' religious exercise. The Township's final decision prohibits Plaintiffs from engaging in their religious exercise as set forth in this Complaint.

87. Plaintiffs do not have any alternative locations for the construction and development of the St. Pio Chapel and prayer campus. In other words, there is no feasible alternative location from which Plaintiffs can carry on their religious mission. Consequently, the Township's rejection prohibits Plaintiffs from engaging in their desired religious behaviors, thereby causing a substantial burden on Plaintiffs' religious exercise.

88. In 2020, CHI paid approximately \$7,792 to the Township in property taxes for the CHI Property. CHI will have to continue paying property taxes to the Township even though the Township will not allow Plaintiffs to engage in their desired religious exercise on the CHI Property.

89. Following the Township's unlawful rejection of Plaintiffs' Final

Submission, the Township continued its assault on Plaintiffs' rights to religious exercise and freedom of speech. On or about May 7, 2021, the Township, via a letter signed by Defendant Stone, demanded that Plaintiffs remove the Stations of the Cross and the display of the image of Santa Maria delle Grazie from the CHI Property. Plaintiff Palazzolo didn't receive the letter until on or about May 19, 2021.

90. As stated in the Township's letter, "After denial of the proposed project at 3280 Chilson Road, the signs/temporary signs are in violation of the sign ordinance and will need to be removed." In this letter, Defendants also state that the display of the image of Santa Maria delle Grazie is a "structure/grotto sign [that] does not have a permit and will also need to be removed." Defendants consider this image to be an "accessory structure."

91. Defendants included with the letter a copy of the Township's "sign standards and accessory structure ordinance," which are part of the Zoning Ordinance.

92. As set forth in the May 7, 2021 letter, Defendants demand that Plaintiffs remove all religious symbols and icons from the CHI Property. In other words, Defendants demand that Plaintiffs cleanse the CHI Property of anything religious.

93. The "sign standards" referenced in the Township's May 7, 2021 letter are found in Article 16 of the Township Zoning Ordinance. Article 16 was amended, in relevant part, on November 11, 2020. A true and correct copy of Article 16 is

attached to this Complaint as Exhibit 6 (“Sign Ordinance”) and incorporated herein by reference.

94. The image of Santa Maria delle Grazie, which is approximately 6’ x 6’ in size, is displayed within a frame. The top frame housing is built on cement board with stone veneer on the front of the frame. The back is exposed. The base is loose, stacked stone. There is no cement, and there are no footings. It is *not* a permanent structure. It is not an accessory building or structure, as Defendants assert; it is a religious symbol protected by the First Amendment.

95. To treat the image of Santa Maria delle Grazie as an accessory building or structure and thus demand its removal, as the Township is doing here, is not only factually incorrect, it is unconstitutional.

96. The Township permits many different types of signage, both temporary and permanent. The Township’s stated interests for regulating signage within the Township is, in relevant part, as follows:

to protect public safety, health and welfare; minimize abundance and size of signs to reduce motorist distraction and loss of sight distance; promote public convenience; preserve property values; support and complement objectives of the Township Master Plan and this Zoning Ordinance; and enhance the aesthetic appearance within the Township.

Sign Ordinance § 16.01.



97. CHI's religious displays (Stations of the Cross and image of Santa Maria delle Grazie), which are located within a wooded area on a 40-acre lot, do not undermine any of the Township's stated objectives for restricting signage.

98. CHI's religious displays are not "distracting to motorists and pedestrians." They do not "create[] a traffic hazard" nor do they "reduce[] the effectiveness of signs needed to direct and warn the public." CHI's religious displays do not "overwhelm the senses, impair sightlines and vistas, create confusion, reduce desired uniform traffic flow, create potential for accidents, affect the tranquility of residential areas, impair aesthetics [or] degrade the quality of a community." *See* Sign Ordinance § 16.01.01.

99. CHI's religious displays are not placed within the public street right-of-way—they are not even visible from the road—and thus create no visibility or public safety issues whatsoever. And they create no visual blight. An individual who is offended by or objects to Plaintiffs' religious displays would have to trespass on the private property to see them.

100. Defendants have no legitimate interest, let alone a compelling interest, in ordering Plaintiffs to remove the private religious symbols displayed on the CHI Property. Defendants' enforcement of the Township Zoning Ordinance against Plaintiffs' religious displays is arbitrary, capricious, discriminatory, and unreasonable.

101. The Sign Ordinance expressly exempts by way of its definition of a “sign” the following: “Legal notices,” “Decorative displays in connection with a recognized holiday, provided that the display doesn’t exceed 75 days”—an arbitrary number; “Signs required by law”; and “Flags of any country, state, municipality, university, college or school.” Sign Ordinance § 16.02.02.

102. By its own terms, the Township’s Sign Ordinance exempts from its permit and fee requirement “Historical marker[s],” “Parking lot signs,” “Street address signs,” and “Temporary signs.” Sign Ordinance § 16.03.02.

103. As set forth in this Complaint and by the plain language of the Sign Ordinance, this ordinance is a content-based restriction on speech, *Reed v. Town of Gilbert*, 576 U.S. 155, 163-64 (2015), which is unlawful, *id.* at 163 (“Content-based laws . . . are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests.”); *see also Int’l Outdoor, Inc. v. City of Troy*, 974 F.3d 690 (6th Cir. 2020) (requiring strict scrutiny because “the Sign Ordinance imposed a content-based restriction by exempting certain types of messages from the permitting requirements, such as flags and ‘temporary signs’ that included on- and off-premises real-estate signs, ‘garage, estate or yard sale’ signs, ‘non-commercial signs[,]’ ‘[p]olitical signs[,]’ ‘holiday or other seasonal signs[,]’ and ‘constructions signs . . . .’”).

104. By requiring prior approval and a permit, the Sign Ordinance operates as a prior restraint on Plaintiffs' speech and religious exercise.

105. Defendants' actions, as set forth in this Complaint, are not narrowly tailored to serve a compelling interest.

106. Defendants' actions, as set forth in this Complaint, have caused, and will continue to cause, irreparable harm to Plaintiffs and a substantial burden on their fundamental rights, including their right to freely exercise their Catholic faith.

### **FIRST CLAIM FOR RELIEF**

#### **(Religious Land Use and Institutionalized Persons Act)**

107. Plaintiffs hereby incorporate by reference all stated paragraphs.

108. Defendants, under color of state law, have deprived Plaintiffs of their rights by imposing and implementing and/or attempting to impose or implement a land use regulation in a manner that imposes a substantial burden on Plaintiffs' religious exercise and religious expression and such imposition is not in furtherance of a compelling governmental interest nor is it the least restrictive means of furthering that compelling governmental interest in violation of the Religious Land Use and Institutionalized Persons Act and 42 U.S.C. § 1983.

109. The substantial burden imposed is in the implementation of the land use regulation or system of land use regulations, under which Defendants make, or have

in place formal or informal procedures or practices that permit Defendants to make, individualized assessments of the proposed uses for the CHI Property.

110. Defendants' actions, as set forth in this Complaint, impose a substantial burden on Plaintiffs' religious exercise, and the substantial burden affects, or removal of that substantial burden would affect, commerce among the several States as out of state travelers, including Plaintiff Palazzolo, a resident of Missouri, will make visits to the St. Pio Chapel and prayer campus.

111. Defendants, under color of state law, have deprived Plaintiffs of their rights by imposing and implementing and/or attempting to impose and implement a land use regulation in a manner that treats a religious assembly, institution, or organization on less than equal terms with a nonreligious assembly, institution, or organization in violation of the Religious Land Use and Institutionalized Persons Act and 42 U.S.C. § 1983.

112. Defendants, under color of state law, have deprived Plaintiffs of their rights by imposing and implementing and/or attempting to impose and implement a land use regulation in a manner that discriminates against an assembly, institution, or organization on the basis of religion or religious denomination in violation of the Religious Land Use and Institutionalized Persons Act and 42 U.S.C. § 1983.

113. Defendants, under color of state law, have deprived Plaintiffs of their rights by imposing and implementing and/or attempting to impose and implement a

land use regulation that unreasonably limits religious assemblies, institutions, or structures within a jurisdiction in violation of the Religious Land Use and Institutionalized Persons Act and 42 U.S.C. § 1983.

114. As a direct and proximate result of Defendants' actions, Plaintiffs have suffered and will continue to suffer substantial delay, uncertainty, and expense due to the imposition of the regulation.

115. As a direct and proximate result of Defendants' violation of the Religious Land Use and Institutionalized Persons Act, Plaintiffs have suffered irreparable harm, including the loss of their right to religious exercise, entitling them to declaratory and injunctive relief and damages.

## **SECOND CLAIM FOR RELIEF**

### **(Free Exercise—First Amendment)**

116. Plaintiffs hereby incorporate by reference all stated paragraphs.

117. By reason of the aforementioned decisions, laws, policies, practices, procedures, customs, acts, and/or omissions, engaged in under color of state law, Defendants have deprived Plaintiffs of their right to religious exercise in violation of the Free Exercise Clause of the First Amendment as applied to the states and their political subdivisions under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

118. Defendants violated Plaintiffs' right to religious exercise by targeting Plaintiffs for discriminatory and arbitrary enforcement of the zoning laws on account of Plaintiffs' religious practices.

119. The Zoning Ordinance, facially and as applied to restrict Plaintiffs' religious exercise, is not a neutral law of general applicability.

120. Defendants lack a compelling justification for discriminating against Plaintiffs' religious exercise and for distinguishing between Plaintiffs' religious use of the CHI Property and the litany of other secular uses permitted by Defendants for similarly situated property in the Township, as set forth in this Complaint.

121. As a direct and proximate result of Defendants' violation of the Free Exercise Clause of the First Amendment, Plaintiffs have suffered irreparable harm, including the loss of their constitutional rights, entitling them to declaratory and injunctive relief and damages.

### **THIRD CLAIM FOR RELIEF**

#### **(Freedom of Speech—First Amendment)**

122. Plaintiffs hereby incorporate by reference all stated paragraphs.

123. By reason of the aforementioned decisions, laws, policies, practices, procedures, customs, acts, and/or omissions, engaged in under color of state law, Defendants have deprived Plaintiffs of their right to religious expression in violation of the Free Speech Clause of the First Amendment as applied to the states and their

political subdivisions under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

124. The Township's Zoning Ordinance, specifically including the Sign Ordinance, facially and as applied to Plaintiffs and their speech as set forth in this Complaint, is unconstitutionally vague and/or overbroad, causing a chilling effect on Plaintiffs' religious expression in violation of the Free Speech Clause of the First Amendment as applied to the states and their political subdivisions under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

125. The Township's Zoning Ordinance, specifically including the Sign Ordinance, facially and as applied to Plaintiffs and their speech as set forth in this Complaint, is a content-based restriction in violation of the Free Speech Clause of the First Amendment as applied to the states and their political subdivisions under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

126. The Township's Zoning Ordinance, specifically including the Sign Ordinance, facially and as applied to Plaintiffs and their speech as set forth in this Complaint, operates as an unlawful prior restraint on speech in violation of the Free Speech Clause of the First Amendment as applied to the states and their political subdivisions under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

127. Defendants' restriction on Plaintiffs' religious expression, including their restriction on Plaintiffs' religious symbols pursuant to the Township's Zoning Ordinance, specifically including the Sign Ordinance, as set forth in this Complaint, violates Plaintiffs' right to freedom of speech protected by the Free Speech Clause of the First Amendment as applied to the states and their political subdivisions under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

128. As a direct and proximate result of Defendants' violation of the Free Speech Clause of the First Amendment, Plaintiffs have suffered irreparable harm, including the loss of their constitutional rights, entitling them to declaratory and injunctive relief and damages.

#### **FOURTH CLAIM FOR RELIEF**

##### **(Expressive Association—First Amendment)**

129. Plaintiffs hereby incorporate by reference all stated paragraphs.

130. By reason of the aforementioned decisions, laws, policies, practices, procedures, customs, acts, and/or omissions, engaged in under color of state law, Defendants have deprived Plaintiffs of their right to expressive association guaranteed by the First Amendment as applied to the states and their political subdivisions under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.



131. As a direct and proximate result of Defendants' violation of the First Amendment, Plaintiffs have suffered irreparable harm, including the loss of their constitutional rights, entitling them to declaratory and injunctive relief and damages.

### **FIFTH CLAIM FOR RELIEF**

#### **(Equal Protection—Fourteenth Amendment)**

132. Plaintiffs hereby incorporate by reference all stated paragraphs.

133. By reason of the aforementioned decisions, laws, policies, practices, procedures, customs, acts, and/or omissions, engaged in under color of state law, Defendants have deprived Plaintiffs of the equal protection of the law guaranteed under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983 by discriminating against Plaintiffs in their application of the Zoning Ordinance on account of Plaintiffs' exercise of their religious rights, including their right to engage in religious expression, and thereby treating Plaintiffs on less than equal terms.

134. Defendants targeted Plaintiffs for discriminatory and arbitrary enforcement of the Zoning Ordinance on account of Plaintiffs' religious practices thereby infringing upon Plaintiffs' fundamental rights in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

135. Defendants' enforcement of the Sign Ordinance as set forth in this Complaint is arbitrary, capricious, discriminatory, and unreasonable in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

136. As a direct and proximate result of Defendants' violation of the Equal Protection Clause, Plaintiffs have suffered irreparable harm, including the loss of their constitutional rights, entitling them to declaratory and injunctive relief and damages.

#### **SIXTH CLAIM FOR RELIEF**

##### **(Free Exercise—Michigan Constitution)**

137. Plaintiffs hereby incorporate by reference all stated paragraphs.

138. By reason of the aforementioned decisions, laws, policies, practices, procedures, customs, acts, and/or omissions, engaged in under color of state law, Defendants have deprived Plaintiffs of their right to the free exercise of religion in violation of Article 1, Section 4 of the Michigan Constitution.

139. As a direct and proximate result of Defendants' violation of the Michigan Constitution, Plaintiffs have suffered irreparable harm, including the loss of their constitutional rights, entitling them to declaratory and injunctive relief and damages.

## **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs ask this Court:

A) to declare that Defendants violated the Religious Land Use and Institutionalized Persons Act as set forth in this Complaint;

B) to declare that Defendants violated the First and Fourteenth Amendments to the United States Constitution as set forth in this Complaint;

C) to declare that Defendants violated the Michigan Constitution as set forth in this Complaint;

D) to enjoin the enforcement of the Township Zoning Ordinance as applied to Plaintiffs so as to allow Plaintiffs to construct and develop the St. Pio Chapel and prayer campus pursuant to the Final Submission as set forth in this Complaint, and to further enjoin Defendants, their employees, agents, and successors in office from enforcing or endeavoring to enforce the Township Zoning Ordinance, including the Sign Ordinance, so as to restrict Plaintiffs' religious exercise and religious expression as set forth in this Complaint;

E) to award Plaintiffs nominal and compensatory damages for the harm caused by Defendants pursuant to 42 U.S.C. § 1983, the Religious Land Use and Institutionalized Persons Act, and other applicable law;

F) to award Plaintiffs their reasonable attorneys' fees, costs, and expenses pursuant to 42 U.S.C. § 1988, the Religious Land Use and Institutionalized Persons Act, and other applicable law;

G) to grant such other and further relief as this Court should find just and proper.

### **DEMAND FOR JURY TRIAL**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs hereby demand a trial by jury of all issues triable of right by a jury.

Respectfully submitted,

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