

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

ENGLEWOOD CHURCH OF THE
NAZARENE, INC. dba CROSSPOINT
CHURCH, and ENGLEWOOD
CHRISTIAN SCHOOL, INC.,

Plaintiffs,

v.

SARASOTA COUNTY, FLORIDA,

Defendant.

Case No.

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

INTRODUCTION

1. Englewood Church of the Nazarene, Inc. and Englewood Christian School, Inc. (collectively “Englewood”) bring this action against Sarasota County, Florida to vindicate their constitutional and statutory rights.

2. Englewood Church is a small church with a religious calling to provide Christian individualized learning and specially tailored education to students in the community who have learning disabilities and come from underprivileged homes.

3. In 2013, Englewood Church started Englewood Christian School, a ministry that has helped students previously struggling in public school to flourish and discover their true potential.

4. However, more than three years after the school’s inception, Sarasota County

demanded that Englewood Church obtain a special exception to operate the school in the Church's own building or face daily fines of \$250 per day, and up to \$500 per day for repeated violations.

5. The special exception process is time-consuming, costly, and uncertain.

6. The Church paid more than \$10,000—a significant burden—to submit a special exception application which included, amongst a myriad of other requirements, hiring an engineer to draft a detailed Development Concept Plan and holding a Neighborhood Workshop after providing written notice to neighborhood property owners.

7. Subsequently, the County denied the special exception application at a hearing due to the Church's current operation of Englewood Christian without a special exception and traffic concerns.

8. As a result, the Church now has a lien on its property and is accruing daily fines for operating Englewood Christian and ministering to underprivileged children and children with learning disabilities.

9. The County's special exception requirement, and the Board's denial of the Church's application, illegally and unconstitutionally discriminate against religious schools.

10. Under state law, any charter school may operate in a church building *as of right without obtaining a special exception*.

11. At least two charter schools and one public school are currently operating in the residential, single family zone without a special exception.

12. But religious schools such as Englewood Christian must go through a costly special exception process to operate in a church building.

13. And, in this case, the County refused to grant Englewood Christian the requested zoning approval, jeopardizing the school's ability to continue ministering to and educating children, and exposing the Church to significant financial penalties.

14. Moreover, the County itself permits secular assemblies *as of right* in the Church's zoning district, including youth-oriented community services, nonprofit community recreational facilities, theatres, libraries, museums, neighborhood arts centers, philanthropic institutions, senior centers, union halls, and health club spas.

15. The County has treated Englewood on less than equal terms with nonreligious schools and other secular assemblies and institutions.

16. It also has substantially burdened their free exercise of religion, infringed their right to peaceable assembly, and violated their right to equal protection of the law.

17. In so doing, the County has also caused the Church and Englewood Christian to suffer monetary damages by subjecting them to the time-consuming, costly, and uncertain special exception process and imposing daily fines and a lien on the Church's property.

18. Therefore, the Church and Englewood Christian bring this action to protect their most fundamental freedoms and to ensure that they are no longer discriminated against for hosting and operating a religious school.

JURISDICTION AND VENUE

19. This action arises under the United States Constitution and federal law—particularly 42 U.S.C. §§ 1983 and 1988 and the Religious Land Use and Institutionalized Persons Act (RLUIPA), 42 U.S.C. § 2000cc, *et seq.*—and the Florida Religious Freedom Restoration Act (FRFRA), 2016 Florida Statutes § 761, *et seq.*

20. This Court has original jurisdiction over the federal claims by operation of 28 U.S.C. §§ 1331 and 1343.

21. This Court has supplemental jurisdiction over the state law claim by operation of 28 U.S.C. § 1367(a).

22. This Court is authorized to grant the requested declaratory and injunctive relief under 28 U.S.C. §§ 2201 and 2202 and under Federal Rules of Civil Procedure 57 and 65.

23. This Court is authorized to grant the requested damages pursuant to 28 U.S.C. § 1343(a)(4).

24. This Court is authorized to award attorneys' fees pursuant to 42 U.S.C. § 1988 and Fla. Stat. § 761.04.

25. Venue is proper in United States District Court for the Middle District of Florida under 28 U.S.C. § 1391 because the Defendant resides in the District. In addition, the events giving rise to the claims occurred in, and the subject property is situated in, the District.

PARTIES

26. Plaintiff Englewood Church is a Nazarene church established and existing as a non-profit religious corporation under the laws of the state of Florida. Currently, it does business as Crosspoint Church and is located at 404 West Green Street, Englewood, Florida 34223.

27. Plaintiff Englewood Christian is a Christian school established and existing as a non-profit religious corporation under the laws of the state of Florida. Englewood Christian

is located in Englewood Church at 404 West Green Street, Englewood, Florida 34223.

28. Defendant Sarasota County is a public body corporate and politically established, organized, and authorized under Florida law, with the authority to sue and be sued, and was at all times relevant herein, operating within the course and scope of its authority and under color of state law.

STATEMENT OF FACTS

Englewood Church

29. The Church is a small congregation of approximately 45 members.

30. The Church has sincerely held religious beliefs that it is to serve those in the community.

31. The Church believes that it is called to love and serve its community in tangible ways, and communicate the Gospel to the next generation.

32. One way the Church loves and serves its community—and shares the Gospel with its community—is through operating a Christian school for students who have learning disabilities and come from underprivileged homes.

Englewood Christian School

33. In order to fulfill its religious mission, and at the request of local parents, the Church in June, 2013 began taking steps to launch a new ministry: Englewood Christian School.

34. By end of July, 2013, the Church obtained all necessary inspections and approvals from Sarasota County to start Englewood Christian.

35. At that time, the County did not object to the Church operating Englewood Christian on its property.

36. Englewood Christian's inaugural class was in August, 2013.

37. Englewood Christian has sincerely-held religious beliefs that it is to provide Christian education to students in the community who have learning disabilities and come from underprivileged homes.

38. Englewood Christian shares the same building as the Church and has since its founding.

39. Englewood Christian started with 15 students, all of whom either had learning disabilities or came from underprivileged homes.

40. Englewood Christian has grown to a current enrollment of 52 students, most of whom either have learning disabilities or come from underprivileged homes.

41. Upon information and belief, Englewood Christian is the only private school in Englewood, Florida, that serves students with learning disabilities.

42. Englewood Christian's Mission Statement states that it is "committed to teaching moral and ethical standards based upon the Word of God."

43. The small, hands-on Christian environment of Englewood Christian has allowed many students who were once struggling at their public schools to flourish educationally, emotionally, and spiritually.

44. In order to fulfill their religious missions, the Church desires to operate Englewood Christian and Englewood Christian desires to operate on the Church's property.

The County Threatens to Shut Down and Fine Englewood

45. Englewood’s property at 404 West Green Street is zoned Residential, Single Family District 3, Commercial Transition Overlay District (RSF-3/CTOD).

46. As of January 1, 2019, land and development in the County is regulated by the Sarasota County Unified Development Code (County Code).

47. Under the old code existing prior to January 1, 2019, the Church was a grandfathered nonconforming use because a church had lawfully existed on the property since the 1920s—long before the first zoning code was enacted. *See* Former Code arts. 8.1.1-1.2 (2018).

48. The current Unified Development Code permits the Church to operate as of right due to its previous designation as a lawfully existing, nonconforming use.

49. For all purposes relevant to this lawsuit, the old zoning code and new code are functionally identical and impose the same zoning restrictions on the RSF-3/CTOD zone.

50. The County Code bans “elementary, middle, or high school” uses except by special exception in all RSF zones, including the Church’s RSF-3/CTOD zone. *See* County Code § 124-76(b)(2)(e)(4). *See* Exhibit 1.

51. Since the Church started operating the School in 2013, the County was aware of its operation as officials had been to the Church property multiple times for inspections and meetings with the Church’s pastor.

52. In 2017, four years after the School began, the County cited the Church and threatened it with daily fines of \$250 per day, and up to \$500 per day, for operating Englewood Christian at the Church’s property without a special exception. *See* Exhibit 2.

53. On March 23, 2018, a Special Magistrate held a hearing regarding the citation and ordered a lien on the Church property and that it be fined \$500 on August 15, 2018, and \$250 per day starting on August 16th, 2018, if Englewood Christian continued operations at the Church property without a special exception. *See* Exhibit 3.

54. In a good faith effort to satisfy the lien and avoid fines, the Church submitted an application for special exception in May, 2018.

55. The special exception process is time-consuming, costly, and uncertain.

56. The filing fee for the special exception alone is \$7,500.

57. As part of the application process, the Church was required to hire an engineer to draft and submit a Development Concept Plan.

58. The Church also had to host a Neighborhood Workshop and pay to provide written notice to property owners in the neighborhood.

59. Aside from the time and effort diverted from the normal job responsibilities of Church employees, the Church expended over \$10,000 to file the special exception application and had to attend multiple hearings.

60. After the Church had filed its application but before the County had acted on the application, the Church was fined \$500 on August 15, 2018, and began accruing daily fines of \$250 per day on August 16, 2018, for each day Englewood Christian continued operations at its property.

61. On September 20, 2018, the nine-member Sarasota County Planning Commission unanimously recommended that Englewood's special exception application be approved.

62. But despite this unanimous recommendation, the Sarasota County Board of Commissioners denied Englewood's special exception application at a hearing on November 7, 2018. (denial). *See* Exhibit 4.

63. Although the County denied the special exception application because it believed a religious school was "not consistent with Future Land Use Policy 1.2.17, 1.3.1 and 3.2.5" and "it would not meet the standards for a special exception," the County did not specify the exact reasons for the denial except that it "would be detrimental to the character of the neighborhood because of its intensity." *See* Exhibit 4.

64. Immediately after the County Board of Commissioners hearing adjourned, a County official told the Pastor of Englewood Church that a secular charter school could operate on the Church property without a special exception.

65. The lien on the Church's property that was ordered by the Special Magistrate on March 23, 2018, remains today.

66. As of March 11, 2019, the Church has accrued a crippling estimated total of \$40,000 in fines as a result of the special exception requirement and the County's denial.

67. The denial forced Englewood Christian to search for another property to operate its school.

68. After expending additional time and resources, it located a potential property where it can operate as of right under the Code.

69. Englewood Christian is currently in the inspection phase of purchasing the new property.

70. Though Englewood Christian has located a potential property, there is still uncertainty as to whether it will close on the new property.

71. Even if Englewood Christian closes on the new property, it desires to keep its elementary students at the Church property and hold all-school chapel there.

72. Englewood Christian's use of the Church property results in minimal traffic.

73. Currently, 5-8 cars pull into the Church parking lot each morning and afternoon to drop off and pick up students.

74. Additionally, Englewood Christian operates one bus that picks the rest of the students up at three locations in the community.

75. The bus enters the Church property one time in the morning and remains there until it takes the students back to their respective bus stops after school.

76. Englewood Church continues to operate Englewood Christian on its property.

77. However, if forced to shut down due to the lien on its property and daily fines, Englewood will lose its ministry opportunity providing individualized education to students with learning disabilities and that come from underprivileged homes.

78. Englewood will be irreparably harmed if forced to shut down as it will lose the time, resources and efforts sacrificially invested in its local ministry.

The County Treats Englewood Unequally

79. Under Florida law, any charter school is permitted to operate in any church as of right under the church's preexisting zoning and land use designations without obtaining a special exception, rezoning, or a land use change. Fla. Stat. § 1002.33(18)(c).

80. Charter schools are also exempt from assessments of fees for building permits. Fla. Stat. § 1002.33(18)(d).

81. Despite this permission for charter schools, the County Code requires religious schools to obtain a special exception in the RSF zones, including the RSF-3/CTOD zone. *See* County Code § 124-76(b)(2)(e)(4).

82. Although Section 124-76(b)(2)(e)(4) of the County Code requires a special exception to operate a school in the RSF-3/CTOD zone, according to the County's website at least two charter schools operate in that zone without a special exception.

83. Despite two other charter schools operating as of right in the RSF-3/CTOD zone without a special exception, Englewood was prohibited without applying for a special exception, and was denied even after applying.

84. In addition, the County is selectively applying its Code prohibiting "elementary, middle, and high schools" in the RSF zones, as there is at least one public school operating in the RSF zones without a special exception.

85. The County allows numerous other secular assemblies to operate as of right in the RSF-3/CTOD zone.

86. Permitted uses in the Commercial Transition Overlay District include:

- Community service uses, including (but not limited to):
 - nonprofit community recreational facility,
 - library,
 - museum,
 - neighborhood arts center,
 - philanthropic institution,
 - senior center, and

- union hall or youth-oriented community service uses.
- Theatre for live stage productions, indoors within a completely enclosed building;
- Health club or spa;
- Gymnastics facility.

See County Code §§ 124-102(b)(2)(b)(1), 124-305. *See* Exhibits 5, 6.

87. By treating the Church and Englewood Christian worse than nonreligious schools and secular assemblies, the County has severely and negatively impacted the Church's and Englewood Christian's ability to fulfill their sincerely-held religious beliefs that they are to provide Christian education to students in the community with learning disabilities and that come from underprivileged homes.

ALLEGATIONS OF LAW

88. All acts of the County, its officers, agents, servants, employees, or persons acting at their behest or direction, were done and are continuing to be done, under the color and pretense of state law, including the ordinances, regulations, customs, policies and usages of the County.

89. Englewood has no adequate or speedy remedy at law to correct or redress the deprivations of their constitutional and statutory rights by the County.

90. Unless and until enforcement of the Code is enjoined, Englewood will continue to suffer irreparable injury to their constitutional and statutory rights.

91. The County's unequal treatment and discrimination against Englewood, through the Code and its officers, agents, servants, employees, or persons acting at their behest or direction, has caused the Plaintiffs to suffer damages.

**COUNT I – VIOLATION OF RLUIPA’S “EQUAL TERMS” PROVISION,
42 U.S.C. § 2000cc(b)(1)**

92. Englewood hereby reiterates and adopts each and every allegation in the preceding paragraphs 1-91.

93. Pursuant to state law and the County Code, numerous secular assemblies or institutions are permitted to operate as of right in the RSF-3/CTOD zoning district.

94. The County’s prohibition of religious schools in the RSF-3/CTOD zone without a special exception, on its face and as applied, violates the equal terms provision of RLUIPA, 42 U.S.C. § 2000cc(b)(1).

95. The Church and Englewood Christian are religious assemblies or institutions.

96. Englewood’s religious beliefs are sincerely and deeply held.

97. The Code regulates land use in Sarasota County, Florida.

98. The Code constitutes a land use regulation or a system of land use regulations by law.

99. The Code limits and restricts Englewood’s use of the property at 404 West Green Street.

100. The Code bans school uses in all RSF zones, including the RSF-3/CTOD zone except by special exception.

101. There are at least two charter schools that operate in the RSF-3/CTOD zone.

102. At least one public school also operates in the RSF zones without a special exception.

103. Pursuant to state law, charter schools are permitted to operate in the Church under the Church's preexisting zoning and land use designations without obtaining a special exception. *See* Fla. Stat. § 1002.33(18)(c).

104. Other nonreligious assemblies and institutions, like charter schools, youth-oriented community services, nonprofit community recreational facilities, theatres, libraries, museums, neighborhood arts centers, philanthropic institutions, senior centers, union halls, and health club spas are permitted to operate in the RSF-3/CTOD zone as of right under the Code.

105. Other nonreligious assemblies are in fact operating in the RSF-3/CTOD zone including at least two charter schools.

106. The County's prohibition of religious schools in the RSF-3/CTOD zone without a special exception, on its face and as applied, treats Englewood on less than equal terms with nonreligious assemblies and institutions like charter schools, youth-oriented community services, nonprofit community recreational facilities, theatres, libraries, museums, neighborhood arts centers, philanthropic institutions, senior centers, union halls, and health club spas.

107. The County has no narrowly tailored, compelling government interest sufficient to justify its unequal treatment.

WHEREFORE, Englewood respectfully requests the Court grant the equitable and legal relief and damages set forth in the prayer for relief.

**COUNT II – VIOLATION OF RLUIPA’S “NONDISCRIMINATION”
PROVISION, 42 U.S.C. § 2000cc(b)(2)**

108. Englewood hereby reiterates and adopts each and every allegation in the preceding paragraphs 1-91.

109. The County’s prohibition of religious schools in the RSF-3/CTOD zone without a special exception, on its face and as applied, violates the nondiscrimination provision of RLUIPA, 42 U.S.C. § 2000cc(b)(2).

110. The Church and Englewood Christian are religious assemblies or institutions.

111. Englewood’s religious beliefs are sincerely and deeply held.

112. The Code regulates land use in Sarasota County, Florida.

113. The Code constitutes a land use regulation or a system of land use regulations by law.

114. Charter schools are permitted to operate in the Church under the Church’s preexisting zoning and land use designations without obtaining a special exception. *See Fla. Stat. § 1002.33(18)(c)*.

115. The County Code bans school uses in all RSF zones, including the RSF-3/CTOD zone except by special exception.

116. There are at least two charter schools that operate in the RSF-3/CTOD zone.

117. At least one public school also operates in the RSF zones without a special exception.

118. Other nonreligious assemblies and institutions, like, youth-oriented community services, nonprofit community recreational facilities, theatres, libraries, museums, neighborhood arts centers, philanthropic institutions, senior centers, union halls,

and health club spas are permitted to operate in the RSF-3/CTOD zone as of right under the Code.

119. The Church applied for a special exception to operate Englewood Christian on its property, but the County denied its application.

120. Englewood is facing threats of shut down and is incurring daily fines for continuing operations of the school on its property.

121. The County's prohibition of churches operating religious schools in the RSF-3/CTOD zone without a special exception, on its face and as applied, discriminates against Englewood on the basis of their religion or religious denomination.

WHEREFORE, Englewood respectfully requests the Court grant the equitable and legal relief and damages set forth in the prayer for relief.

COUNT III - VIOLATION OF THE RIGHT TO FREE EXERCISE OF RELIGION UNDER THE UNITED STATES CONSTITUTION

122. Englewood hereby reiterates and adopts each and every allegation in the preceding paragraphs 1-91.

123. The County's prohibition of churches operating religious schools in the RSF-3/CTOD zone without a special exception, on its face and as applied, violates Englewood's right to free exercise of religion, as guaranteed by the First Amendment to the United States Constitution.

124. The Church and its congregants have sincerely held religious beliefs that they are to serve those in the community.

125. The Church and its congregants have sincerely held religious beliefs that they are to provide Christian education to students in the community with learning disabilities and that come from underprivileged homes.

126. The Church has a sincere religious belief that all persons are created by God with inherent dignity and worth.

127. The Church believes that it is called to love and serve its community in tangible ways, and communicate the Gospel to the next generation.

128. One way the Church loves and serves its community—and shares the Gospel with its community—is through operating a Christian school for students who have learning disabilities and come from underprivileged homes.

129. Under the County Code, churches must go through a time-consuming, costly, and uncertain special exception process in order to operate a religious school in the RSF-3/CTOD zone.

130. At the County's request, the Church submitted a special exception application.

131. But the Board denied the Church's application.

132. Charter schools are permitted to operate in the Church under the Church's preexisting zoning and land use designations without obtaining a special exception. *See Fla. Stat. § 1002.33(18)(c)*.

133. The Code bans school uses in all RSF zones, including the RSF-3/CTOD zone except by special exception.

134. There are at least two charter schools that operate in the RSF-3/CTOD zone.

135. At least one public school also operates in the RSF zones without a special exception.

136. Other nonreligious assemblies and institutions like youth-oriented community services, nonprofit community recreational facilities, theatres, libraries, museums, neighborhood arts centers, philanthropic institutions, senior centers, union halls, and health club spas are permitted to operate in the RSF-3/CTOD zone as of right under the Code.

137. Other assembly uses are in fact located and operating within the RSF-3/CTOD zone.

138. The County's prohibition of churches operating religious schools in the RSF-3/CTOD zone without a special exception, on its face and as applied, and the fines imposed, substantially burden Englewood's sincerely held religious beliefs that they are to provide Christian education to students in the community with learning disabilities and that come from underprivileged homes.

139. Englewood is being penalized for operating a Christian school according to their beliefs that they are to provide Christian education to students in the community with learning disabilities and that come from underprivileged homes.

140. The County is forcing Englewood to choose between shutting down the school at the property or incurring daily fines for continuing operations.

141. The County's prohibition of religious schools in the RSF-3/CTOD zone without a special exception, on its face and as applied, is neither neutral nor generally applicable because nonreligious assemblies and institutions are permitted to operate in the RSF-3/CTOD zone as of right under the Code.

142. The County's prohibition of religious schools in the RSF-3/CTOD zone without a special exception, on its face and as applied, specifically and discriminatorily targets religion and religious education and is hostile to religion.

143. There is no compelling government interest sufficient to justify the kind of discrimination that exists when the County does not permit religious schools in the RSF-3/CTOD zone when nonreligious assemblies and institutions are permitted to operate in the RSF-3/CTOD zone as of right under the Code.

144. The County's prohibition of religious schools in the RSF-3/CTOD zone without a special exception are not the least restrictive means to accomplish any permissible government purpose sought to be served by the land use regulations.

145. The County's prohibition of religious schools in the RSF-3/CTOD zone without a special exception is not narrowly tailored as required for restrictions on Englewood's free exercise of religion.

146. The County has failed or refused to accommodate Englewood's sincerely held religious beliefs.

WHEREFORE, Englewood respectfully requests the Court grant the equitable and legal relief and damages set forth in the prayer for relief.

**COUNT IV – VIOLATION OF THE RIGHT TO PEACEABLE ASSEMBLY
UNDER THE UNITED STATES CONSTITUTION**

147. Englewood hereby reiterates and adopts each and every allegation in the preceding paragraphs 1-91.

148. The Church has sincerely-held religious beliefs that it is to serve those in the community.

149. The Church and Englewood Christian have sincerely-held religious beliefs that it is to provide Christian education to students in their community with learning disabilities and that come from underprivileged homes.

150. The County's prohibition of churches operating religious schools in the RSF-3/CTOD zone without a special exception prohibits Englewood from assembling for religious teaching and other religious purposes in the RSF-3/CTOD zone.

151. Charter schools are permitted to operate in the Church under the Church's preexisting zoning and land use designations without obtaining a special exception.

152. The County has no compelling interest in limiting the peaceable assembly of Englewood in the RSF-3/CTOD zone.

153. The County's prohibition of religious schools in the RSF-3/CTOD zone without a special exception, on its face and as applied, constitutes a violation of Englewood's right of peaceable assembly as guaranteed by the First Amendment to the United States Constitution.

WHEREFORE, Englewood respectfully requests the Court grant the equitable and legal relief and damages set forth in the prayer for relief.

**COUNT V – VIOLATION OF THE EQUAL PROTECTION CLAUSE
OF THE UNITED STATES CONSTITUTION**

154. Englewood hereby reiterates and adopts each and every allegation in the preceding paragraphs 1-91.

155. Englewood's right to equal protection under the laws is protected by the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

156. Under the Code, churches must go through a time-consuming, costly, and uncertain special exception process in order to operate a religious school in the RSF-3/CTOD zone.

157. At the County's request, the Church submitted a special exception application.

158. But the Board denied the Church's special exception application.

159. Charter schools are permitted to operate in the Church under the Church's preexisting zoning and land use designations without obtaining a special exception.

160. The Code bans school uses in all RSF zones, including the RSF-3/CTOD zone except by special exception.

161. There are at least two charter schools that operate in the RSF-3/CTOD zone.

162. At least one public school also operates in the RSF zones without a special exception.

163. Other similarly situated nonreligious assemblies and institutions like youth-oriented community services, nonprofit community recreational facilities, theatres, libraries, museums, neighborhood arts centers, philanthropic institutions, senior centers, union halls, and health club spas are permitted to operate in the CTOD as of right under the Code.

164. Other assembly uses are in fact located and operating within the RSF-3/CTOD zone.

165. The County's prohibition of religious schools in the RSF-3/CTOD zone without a special exception, on its face and as applied, is an unconstitutional abridgement of Englewood's affirmative right to equal protection of the laws and is not facially neutral.

166. The County's prohibition of religious schools in the RSF-3/CTOD zone without a special exception, on its face and as applied, is unconstitutional because it treats religious assemblies and institutions less favorably than it treats similarly-situated nonreligious assemblies and institutions that are permitted to operate in the RSF-3/CTOD zone as of right under the Code.

167. The County's prohibition of religious schools in the RSF-3/CTOD zone without a special exception, on its face and as applied, is an unconstitutional abridgement of Englewood's right to equal protection of the law because the County treats Englewood differently from similarly-situated nonreligious assemblies or institutions on the basis of their religious content and expression.

168. The County's prohibition of religious schools in the RSF-3/CTOD zone without a special exception is not supported by a compelling government interest sufficient to justify its enactment or enforcement against Englewood.

169. The County's prohibition of religious schools in the RSF-3/CTOD zone without a special exception is not the least restrictive means to accomplish any permissible government interest sought to be served by the regulations.

170. The County's prohibition of religious schools in the RSF-3/CTOD zone without a special exception does not serve a significant government interest.

WHEREFORE, Englewood respectfully requests the Court grant the equitable and legal relief and damages set forth in the prayer for relief.

**COUNT VI – VIOLATION OF THE FLORIDA RELIGIOUS FREEDOM
RESTORATION ACT OF 1998,
FLA. STAT. § 761.03**

171. Englewood hereby reiterates and adopts each and every allegation in the preceding paragraphs 1-91.

172. The County’s prohibition of religious schools in the RSF-3/CTOD zone without a special exception, on its face and as applied, violates Englewood’s right to free exercise of religion, as guaranteed by Fla. Stat. § 761.03.

173. The Church has sincerely-held religious beliefs that it is to serve those in the community.

174. The Church has a sincere religious belief that all persons are created by God with inherent dignity and worth.

175. The Church believes that it is called to love and serve its community in tangible ways, and communicate the Gospel to the next generation.

176. One way the Church loves and serves its community—and shares the Gospel with its community—is through operating a Christian school for students who have learning disabilities and come from underprivileged homes.

177. Englewood Christian has sincerely-held religious beliefs that it is to provide Christian education to students in their community with learning disabilities and that come from underprivileged homes.

178. Englewood’s religious beliefs are sincerely and deeply held.

179. Under the County Code, churches and religious schools must go through a costly and burdensome special exception process in order to operate in the RSF-3/CTOD zone.

180. The Church submitted a special exception application and the Board denied the application.

181. Charter schools are permitted to operate in the Church under the Church's preexisting zoning and land use designations without obtaining a special exception.

182. The Code bans school uses in all RSF zones, including the RSF-3/CTOD zone except by special exception.

183. There are at least two charter schools that operate in the RSF-3/CTOD.

184. At least one public school also operates in the RSF zones without a special exception.

185. Other nonreligious assemblies and institutions like youth-oriented community services, nonprofit community recreational facilities, theatres, libraries, museums, neighborhood arts centers, philanthropic institutions, senior centers, union halls, and health club spas are permitted to operate in the RSF-3/CTOD zone as of right under the Code.

186. Other secular assembly uses are in fact located and operating within the RSF-3/CTOD zone.

187. The County's prohibition of religious schools in the RSF-3/CTOD zone without a special exception, on its face and as applied, substantially burdens Englewood's sincerely held religious beliefs that they are to provide Christian education to students in the community with learning disabilities and that come from underprivileged homes.

188. Englewood is being penalized for operating a Christian school according to their beliefs that they are to provide Christian education to students in the community with learning disabilities and that come from underprivileged homes.

189. The County is forcing the Church and Englewood Christian to choose between shutting down the school at the property or incurring daily fines for continuing operations.

190. The County's prohibition of religious schools in the RSF-3/CTOD zone without a special exception, on its face and as applied, is neither neutral nor generally applicable because similarly-situated nonreligious assemblies and institutions are permitted to operate in RSF-3/CTOD zone as of right.

191. The County's prohibition of religious schools in the RSF-3/CTOD zone without a special exception, on its face and as applied, specifically and discriminatorily targets religion and religious education.

192. There is no compelling government interest sufficient to justify the kind of discrimination that exists when the County does not permit religious schools in the RSF-3/CTOD zone without a special exception when nonreligious assemblies and institutions are permitted to operate in the RSF-3/CTOD zone as of right under the Code.

193. The County's prohibition of religious schools in the RSF-3/CTOD zone without a special exception is not the least restrictive means to accomplish any permissible government purpose sought to be served by the land use regulations.

194. The County's prohibition of religious schools in the RSF-3/CTOD zone without a special exception is not narrowly tailored as required for restrictions on Englewood's free exercise of religion.

195. The County has failed or refused to accommodate Englewood's sincerely held religious beliefs.

196. The Church and Englewood Christian are entitled to relief under Fla. Stat. § 761.03(2).

WHEREFORE, Englewood respectfully requests the Court grant the equitable and legal relief and damages set forth in the prayer for relief.

PRAYER FOR RELIEF

Englewood Church and Englewood Christian School pray for judgment as follows:

A. That this Court render a Declaratory Judgment declaring the County Code and its denial of a special exception to Englewood Church and Englewood Christian School, unconstitutional and in violation of federal and state law, and declaring that the County, the County's officers, agents, employees and other persons acting in active concert with them, unlawfully obstructed the Englewood Church and Englewood Christian School from exercising their constitutionally protected rights and further declaring that:

- (1) The County must allow Englewood Church to host Englewood Christian School at its property within the RSF-3/CTOD zone without a special exception;
- (2) The County must treat Englewood Church and Englewood Christian School equally with nonreligious assemblies or institutions in the RSF-3/CTOD zone;

- (3) The County must not discriminatorily target Englewood Church or Englewood Christian School through the County Code and its denial;
- (4) The County Code which prohibits religious schools from operating in the RSF3-CTOD zone, specifically § 124-76(b)(2)(e)(4) and § 124-102(b)(2)(b)(1), are facially and as applied, unconstitutional and violate RLUIPA and Florida statutes;
- (5) The County must eliminate the lien from Englewood Church's property; and
- (6) The County must eliminate all fines accrued by Englewood Church for failure to obtain a special exception to host Englewood Christian School.
- (7) The County must reimburse Englewood Church for the costs it incurred complying with the special exception process.

B. That this Court immediately issues a Preliminary and Permanent injunction to enjoin the County, the County's officers, agents, employees and all other persons acting in active concert with them, from enforcing the County Code and its denial so that:

- (1) The County must allow Englewood Church to host Englewood Christian School at its property within the RSF-3/CTOD zone;
- (2) The County must treat Englewood Church and Englewood Christian School equally with nonreligious assemblies or institutions in the RSF-3/CTOD zone;
- (3) The County must not discriminatorily target Englewood Church and Englewood Christian School through the County Code and its denial;

- (4) The County is enjoined from imposing the lien on Englewood Church's property for failure to obtain a special exception to host Englewood Christian School; and
- (5) The County is enjoined from enforcing all fines accrued by Englewood Church for failure to obtain a special exception to host Englewood Christian School.
- (6) The County must reimburse Englewood Church for the costs it incurred complying with the special exception process.

C. Grant to Englewood Church and Englewood Christian School damages;

D. Grant to the Englewood Church and Englewood Christian School an award of its costs of litigation, including reasonable attorneys' fees and expenses.

E. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted this 25th day of March, 2019.

/s/ Erik Stanley
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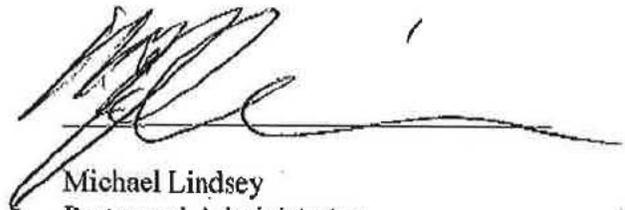
* *Motion for Admission Pro Hac Vice
Forthcoming*

***Motion for Admission Pro Hac Vice
Pending*

VERIFICATION OF COMPLAINT

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that I have read the foregoing Verified Complaint and the factual allegations thereof and that to the best of my knowledge the facts alleged therein are true and correct.

Executed this 25th day of March, 2019.

A handwritten signature in black ink, appearing to read "Michael Lindsey", written over a horizontal line.

Michael Lindsey
Pastor and Administrator
Englewood

CERTIFICATE OF SERVICE

I hereby certify that on March 25, 2019, I electronically filed a copy of the foregoing motion. I further certify that this motion will be served on all Defendants at the time of service of process.

/s/ Erik W. Stanley
Erik W. Stanley
Attorney for Plaintiffs