

Constitution; and the Illinois Religious Freedom Restoration Act, 775 ILCS 35/1, *et seq.* (“Illinois RFRA”).

3. This Court has jurisdiction over Plaintiff’s federal claims pursuant to 28 U.S.C. § 1331.

4. Plaintiff further invokes the supplemental jurisdiction of this Court, pursuant to 28 U.S.C. § 1367(a), to consider state law claims arising out of the same subject matter as Plaintiff’s federal claims.

5. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because, as a municipality located in this judicial district, Defendant “resides” in this judicial district and a substantial part of the events giving rise to the claims in this Complaint have occurred and will occur in this judicial district.

Parties

6. Plaintiff, FRATERNITÉ NOTRE DAME, INC., is an Illinois not-for-profit corporation. Plaintiff is the owner of record of approximately 95 acres of property with a common address of 10002 Harmony Hill Road, Marengo, Illinois (hereinafter the “Subject Property”). The Subject Property is located within Coral Township in McHenry County.

7. Defendant, COUNTY OF MCHENRY, is a body politic and corporate of the State of Illinois and a non-home rule unit of government pursuant to the Illinois Constitution.

Factual Allegations

Fraternité Notre Dame

8. Fraternité Notre Dame is a traditional Catholic religious order which was founded in 1977 by Bishop Jean Marie.

9. Fraternité Notre Dame takes the Most Blessed Virgin Mary as its model. It is an essential part of the Order's faith and mission to help persons who are suffering and in need.

10. For members of the Fraternité Notre Dame, one's faith cannot be disassociated from works of charity and mercy. Members of the Fraternité Notre Dame are called by God to perform charitable works, which are just as much of a religious act as the act of prayer.

11. The Epistle of James asks: "What good is it, my brothers and sisters, if someone claims to have faith but has no deeds? . . . a person is considered righteous by what they do and not by faith alone . . . As the body without the spirit is dead, so *faith without deeds is dead.*" *James 2:14, 24, 26* (emphasis added).

12. Members of the Fraternité Notre Dame renounce all things in order to wholly dedicate themselves to implementing God's will. As illustrated in the foregoing passage, members of the Order do not and cannot practice their faith only in church. Rather, performing works of charity and mercy is, in itself, an essential part of religious life.

13. In 2000, Fraternité Notre Dame opened its Mother House in Chicago, Illinois, where its mission includes performing charitable works such as a daily soup kitchen, a weekly food pantry program, and an after school program.

14. In 2005, Fraternité Notre Dame opened a mission on the Subject Property in McHenry County.

McHenry County Zoning Ordinances

15. McHenry County adopted the McHenry County Zoning Ordinance (hereinafter "Zoning Ordinance") on September 19, 2000, with subsequent amendments effective November 21, 2000 and September 15, 2009.

16. Effective October 22, 2014, McHenry County adopted the McHenry County Unified Development Ordinance (hereinafter “UDO”), which replaced the former Zoning Ordinance. However, the UDO provides that requests for conditional uses made prior to its effective date “may continue under the Ordinance in effect at the time of application” and “may be nonconforming under this Ordinance.” (UDO art. 1.4.G.)

17. The Zoning Ordinance and UDO provide that applications for conditional use permits must be submitted in the first instance to the McHenry County Zoning Board of Appeals (hereinafter “ZBA”). In addition, applications for zoning variations filed in conjunction with an application for a conditional use permit are considered by the ZBA together with the requested conditional use.

18. The ZBA is responsible for holding public hearings on such a petition and making a recommendation to the McHenry County Board (hereinafter “Board”).

19. The Zoning Ordinance provides that the Board may approve a conditional use upon finding that the following “standards for conditional uses” are satisfied:

- a. That the petitioner has demonstrated the ability to meet the requirements listed in the section covering individual conditional uses.
- b. That the site shall be so situated that the proposed use is compatible with the existing or planned future development of the area.
- c. That the establishment, maintenance or operation of the conditional use shall not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.
- d. That the conditional use shall not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.
- e. That the conditional use shall not substantially diminish and impair property value within the neighborhood.
- f. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.
- g. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion and hazard on public streets.

- h. That the conditional use shall, in all other respects, conform to the applicable regulations of the *McHenry County Zoning Ordinance* for the district in which it is located.
- i. That the conditional use is reasonably in the interest of the public welfare. (Zoning Ordinance art. 502.3.)

20. The UDO standards for approval of a conditional use are substantially the same as in the Zoning Ordinance, with the exception of an additional requirement that the ZBA and Board make “specific written findings” and the addition of a final standard that “adequate measures will be taken to provide protection to groundwater recharge and groundwater quality.” (UDO art. 5.4.E.)

21. The UDO provides that the Board may approve a zoning variation upon specific findings by the ZBA and Board that the following “standards for zoning variations” are satisfied:

- a. The particular surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations was carried out.
- b. The conditions upon which the application for a variation are based are unique to the property for which the variation is sought and are not generally applicable to other property within the same zoning district.
- c. The purpose of the variation is not based exclusively upon a desire to increase the monetary gain realized from the property.
- d. The alleged difficulty or hardship is caused by the Ordinance and has not been created by any person presently having an interest in the property.
- e. That the granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.
- f. That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the adjacent neighborhood.
- g. That the granting of the variation requested will not confer on the applicant any special privilege that is denied by this Ordinance to other land or structure of the same zoning district. (UDO art. 5.2.F.)

Fraternité Notre Dame Begins Its Mission in Marengo, Illinois

22. In 2005, Fraternité Notre Dame submitted a petition for a conditional use permit to allow the construction of a place of worship on the Subject Property, of which it owned approximately 65 acres at the time.

23. In service of its mission, Fraternité Notre Dame requested permission to construct the following structures on the Subject Property: a monastery, a church, a seminary, a convent, a retreat center, a bakery, a printing press, and a cemetery.

24. The Subject Property was and is located within an “A-1” agricultural zoning district.

25. The Subject Property is bordered on the west by Harmony Hill Road. Located approximately 1,320 feet north of the Subject Property, also on Harmony Hill Road, is the Marengo Ridge Golf Course.

26. Fraternité Notre Dame’s petition was vehemently opposed by residents of Coral Township, who organized under the name Coral Neighbors Connect Over Rural Planning (“Coral N’CORP”).

27. In public comments during hearings before the ZBA, members of the community questioned Fraternité Notre Dame’s association with the Roman Catholic Church and whether the Order’s members were citizens of France (where the Order originated) or the United States.

28. Nevertheless, on May 24, 2005, the ZBA voted six to one in favor of recommending approval of the petition to the Board, subject to certain conditions including limits on the seating and/or sleeping capacity of the monastery, church, seminary, convent, and retreat center, and limits on the retail sale of baked goods and printed materials.

29. On June 21, 2005, the Board approved the issuance of a conditional use permit to allow Fraternité Notre Dame to construct a monastery, a church, a seminary, a convent, a retreat center, a bakery, a printing press, and a cemetery on the Subject Property, subject to the conditions recommended by the ZBA.

30. Upon information and belief, following either the May 24, 2005 vote of the ZBA or the June 21, 2005 vote of the Board, opponents of the petition commented that they would make the “penguins” (a derogatory reference to Catholic nuns) want to move back to Chicago, and that the cassocks and habits worn by the Order’s priests and nuns would make them “easy targets in their gun sights.”

31. In December 2005, vandals removed the monastery’s mailbox and replaced it with a STOP sign.

32. In January 2006, vandals desecrated the religious statues of Jesus and Mary on the Subject Property. Among other things, Mary’s face was sprayed with black paint, and the words “go away” as well as profanities were spray-painted on and around the statues.

Fraternité Notre Dame Seeks Further Conditional Uses In Service of Its Mission

33. On September 19, 2014, Fraternité Notre Dame submitted a petition (hereinafter “Petition”) for amendment of its previous conditional use permit to:

- a. Add approximately 30 acres of property which it had acquired in the intervening time;
- b. Allow the building of a barn in order to build a commercial kitchen, process grapes for wine making purposes, and brew beer; and
- c. Allow the building and operation of a school with attached dormitory, nursing home with hospice services, and gift shop to sell pastries, religious and inspirational articles, and wine made on the premises, along with a pastry, beer and wine tasting area.

34. Fraternité Notre Dame subsequently amended the Petition to request a height variation for the school and nursing home from the maximum 35 feet to 55 feet.

35. Religious orders have brewed beer and made wine at monasteries for millennia. It is a religious practice with deep historical roots which, today, allows some religious orders to generate a modest amount of income to support their ministry.

36. Fraternité Notre Dame sought permission to brew beer and make wine not to engage in a large-scale commercial enterprise, but as part of and in service of its mission.

37. Likewise, Fraternité Notre Dame sought permission to build a boarding school and nursing home in order to fulfill its mission to help the most vulnerable among us, namely, children and the elderly. Fraternité Notre Dame sought to provide children at its boarding school with an immersive educational experience where they could learn important religious values.

38. Once again, as it had done previously in 2005, Coral Township opposed the Petition.

39. Upon information and belief, prior to the hearings before the ZBA, correspondence was circulated to members of the community urging them to attend the hearings, attacking the Fraternité Notre Dame for allegedly not being “recognized” by the Catholic Church, questioning the Order’s receipt of donations in Chicago given its ownership of an alleged \$4.4 million worth of property in Marengo, and speculating that if the proposed school were built, crime rates in Marengo would rise due to the bussing in of “troubled youth” from Chicago’s Austin neighborhood.

40. In the months leading up to the ZBA hearings and while the hearings were pending, the Fraternité Notre Dame again became the victim of acts of harassment.

41. Hearings on the Petition were held before the ZBA on April 9, April 29, May 27, June 10, July 9, and July 22, 2015.

42. Fraternité Notre Dame presented testimony in support of its Petition establishing that the proposed uses complied with the requirements set forth in the Zoning Ordinance. For example:

- a. Kelly Conolly presented the results of a traffic impact study which concluded that, if the requested conditional uses were granted, there would be only a minimal impact on traffic and Harmony Hill Road would continue to operate at the highest level of service "A."
- b. Vincent Mosca presented the results of a wetlands study performed on the Subject Property. Mr. Mosca testified that nothing prohibited the requested buildings from being constructed, and that the wetlands areas on the Subject Property could be accommodated.
- c. Basel Tarabein, an experienced broker familiar with real estate values in McHenry County and Coral Township, who had sold the Subject Property on behalf of its former owner to the Fraternité Notre Dame, testified that the requested conditional uses would not diminish or impair (and, in fact, may have a positive impact on) property values in the neighborhood.

43. Opponents of the Petition did not present any evidence or testimony contrary to the conclusions reached by the Order's experts.

44. Notably, under the Zoning Ordinance, a school like the one requested by the Fraternité Notre Dame was permitted by right on property zoned A-1, where the school did not include an attached dormitory. Accordingly, the proper question in evaluating the request to build and operate a school was not the impact of the school as a whole, but the impact, if any, of the dormitory component of the school.

45. Johnny Bueno Abdala, expert in architecture, testified that a variance was requested in order to minimize the footprint of the school and nursing home, and therefore minimize the impact on the land. Moreover, the school and nursing home were proposed to be located on the southern part of the Subject Property which, due to the topography of the land, was approximately 50 feet lower than the northern part of the Subject Property. The proposed location of the school was approximately 1,200 feet away from Harmony Hill Road, while the

proposed location of the nursing home was approximately 1,700 feet away from Harmony Hill Road.

46. On July 22, 2005, the ZBA voted four to three in favor of approving the Petition. Because five votes are required for a recommendation, the Petition went to the Board with no recommendation from the ZBA. Members of the ZBA voting against the Petition based their votes in part on the supposed traffic and environmental impacts of the proposed uses, despite the undisputed testimony that the proposed uses would not negatively impact traffic or the environment, as alleged in paragraph 42, *supra*.

47. The Chairman of the ZBA, who voted in favor of approving the Petition, observed that it seemed opponents of the Petition were singling out the Fraternité Notre Dame for special treatment.

48. The ZBA also voted six to one in favor of recommending certain conditions on the proposed uses to the Board, including limiting the footprint of the gift shop, brewery, and winery to 5,000 square feet each, and requiring landscaping screening along the southern property line (where the school and nursing home were to be located).

49. On September 15, 2015, the Board denied the Petition by a vote of twenty against and three in favor of the proposed conditional uses, and twenty-one against and two in favor of the proposed variation. Members of the Board voting against the Petition based their votes on various assumptions or speculation with no basis in the record, including concerns that the proposed uses would create traffic congestion and would be harmful to the environment, despite the uncontested expert testimony to the contrary.

50. The ZBA and Board were aware that, even if the requested conditional uses were approved, the Fraternité Notre Dame would still be required to comply with all applicable codes and regulations in order to build and operate the proposed structures.

Similar Uses

51. The Subject Property is located near several non-religious uses which generate significantly more activity and traffic than the conditional uses requested in the Petition would have.

52. For example, the Marengo Ridge Golf Course is located approximately 1,320 feet north of the Subject Property on Harmony Hill Road. The Golf Course includes a pro shop which sells golf supplies and men's and women's apparel. In addition, the Golf Course includes a bar and grill which is open seven days a week from the early morning to late evening and which serves alcohol. At the time the Petition was pending, the Golf Course had a sign in the driveway indicating that video gambling was also available.

53. In contrast to the Marengo Ridge Golf Course, the gift shop proposed in the Petition would have only been open at the same time as the church and by appointment. Accordingly, many of the gift shop customers would be duplicative of the visitors to the church, and the gift shop was therefore unlikely to generate a significant amount of additional activity. Moreover, the quantity of items carried and sold at the gift shop would have been significantly less than the quantity of items carried and sold at the Golf Course.

54. Upon information and belief, McHenry County has granted conditional use permits to at least one nursing home and at least three schools which, like the Fraternité Notre Dame, are located within an "A-1" agricultural zoning district.

55. Upon information and belief, McHenry County's own Valley Hi Nursing Home is located within an "A-1" agricultural zoning district and has at least 128 beds. In contrast, the nursing home requested by the Fraternité Notre Dame was only expected to have approximately 50 beds.

56. Upon information and belief, Riley Community Consolidated School, Harrison Elementary School, and Lord and Savior Lutheran School are each located within an "A-1" agricultural zoning district, and enroll approximately 300, 440, and 65 students, respectively. In contrast, the school requested by the Fraternité Notre Dame was expected to enroll no more than 80 students. Riley Community Consolidated School and Harrison Elementary School are public schools, while Lord and Savior Lutheran School is a private Christian school.

57. Other religious organizations in McHenry County have been allowed uses similar to those requested in the Petition without close to the level of scrutiny which the Petition was subjected to.

58. The Chairman of the ZBA observed at the conclusion of the hearings that "since I've been on the board we've had 25 churches in the county that have been proposed, not one of which has been turned down, none of which have ever been restricted as to what type of events they could have on their church grounds."

59. The Chairman specifically noted that two religious organizations "had wineries passed with [] retreat centers on their properties no questions asked."

60. In addition to wineries and retreat centers, many religious organizations in McHenry County are allowed to sell items from the premises much like the Fraternité Notre Dame sought to do with its gift shop. Examples include St. John's in Algonquin (resale shop), Little Christopher's in Crystal Lake (resale shop), McHenry County Jewish Congregation in

Crystal Lake (gift shop), and Holy Transfiguration Greek Orthodox Church in Harvard (gift shop).

COUNT I

**EQUAL PROTECTION UNDER THE FOURTEENTH AMENDMENT
TO THE UNITED STATES CONSTITUTION**

61. Plaintiff repeats and realleges paragraphs 1-60 of the Complaint as if set forth in their entirety in Count I.

62. Defendant has deprived and continues to deprive Plaintiff of its right to equal protection of the law, as secured by the Fourteenth Amendment to the United States Constitution, by discriminating against Plaintiff in the application of the Zoning Ordinance and UDO.

63. Defendant's denial of Plaintiff's Petition treated Plaintiff differently from similarly situated religious and non-religious organizations whose petitions and conditional uses were granted, with far less scrutiny than was applied to Plaintiff's Petition.

64. Defendant's actions were without a rational basis. Instead, Defendant's actions were based on findings with no factual support in the record, and which were actually contradicted by the undisputed testimony given by Plaintiff's experts.

WHEREFORE, Plaintiff respectfully requests the following relief from this Court:

- A. A declaratory judgment that Defendant's denial of the Petition is null and void, as an act in derogation of the United States Constitution pursuant to 28 U.S.C. § 2201 and/or 28 U.S.C. § 2202;
- B. A declaratory judgment that Plaintiff shall have the right to develop and use the Subject Property in the manner proposed in the Petition pursuant to 28 U.S.C. § 2201 and/or 28 U.S.C. § 2202;

- C. An injunction directing Defendant to approve the conditional use and height variation ordinances requested in the Petition and to reflect the same on the zoning map that includes the Subject Property pursuant to Fed. R. Civ. P. 65(d);
- D. Attorney's fees and the costs of this proceeding pursuant to 42 U.S.C. § 1988(b); and
- E. Such other and further relief as may be necessary and appropriate to effectuate the Court's judgment and to protect Plaintiff's rights.

COUNT II

EQUAL PROTECTION UNDER THE ILLINOIS CONSTITUTION

65. Plaintiff repeats and realleges paragraphs 1-60 of the Complaint as if set forth in their entirety in Count II.

66. Defendant has deprived and continues to deprive Plaintiff of its right to equal protection of the law, as secured by Article I, Section 2 of the Illinois Constitution, by discriminating against Plaintiff in the application of the Zoning Ordinance and UDO.

67. Defendant's denial of Plaintiff's Petition treated Plaintiff differently from similarly situated religious and non-religious organizations whose petitions and conditional uses were granted, with far less scrutiny than was applied to Plaintiff's Petition.

68. Defendant's actions were without a rational basis. Instead, Defendant's actions were based on findings with no factual support in the record, and which were actually contradicted by the undisputed testimony given by Plaintiff's experts.

WHEREFORE, Plaintiff respectfully requests the following relief from this Court:

- A. A declaratory judgment that Defendant's denial of the Petition is null and void, as an act in derogation of the Illinois Constitution pursuant to 28 U.S.C. § 2201 and/or 28 U.S.C. § 2202;
- B. A declaratory judgment that Plaintiff shall have the right to develop and use the Subject Property in the manner proposed in the Petition pursuant to 28 U.S.C. § 2201 and/or 28 U.S.C. § 2202;
- C. An injunction directing Defendant to approve the conditional use and height variation ordinances requested in the Petition and to reflect the same on the zoning map that includes the Subject Property pursuant to Fed. R. Civ. P. 65(d);
- D. Attorney's fees and the costs of this proceeding pursuant to 42 U.S.C. § 1988(b); and
- E. Such other and further relief as may be necessary and appropriate to effectuate the Court's judgment and to protect Plaintiff's rights.

COUNT III

RLUIPA – EQUAL TREATMENT

69. Plaintiff repeats and realleges paragraphs 1-60 of the Complaint as if set forth in their entirety in Count III.

70. Defendant's denial of the Petition violates the equal terms provision of RLUIPA because it treats Plaintiff on "less than equal terms" with similar non-religious organizations, as alleged in paragraphs 51-56, *supra*.

WHEREFORE, Plaintiff respectfully requests the following relief from this Court:

- A. A declaratory judgment that Defendant's denial of the Petition is null and void, as an act in derogation of RLUIPA pursuant to 28 U.S.C. § 2201 and/or 28 U.S.C. § 2202;
- B. A declaratory judgment that Plaintiff shall have the right to develop and use the Subject Property in the manner proposed in the Petition pursuant to 28 U.S.C. § 2201 and/or 28 U.S.C. § 2202;
- C. An injunction directing Defendant to approve the conditional use and height variation ordinances requested in the Petition and to reflect the same on the zoning map that includes the Subject Property pursuant to Fed. R. Civ. P. 65(d);
- D. Attorney's fees and the costs of this proceeding pursuant to 42 U.S.C. § 1988(b); and
- E. Such other and further relief as may be necessary and appropriate to effectuate the Court's judgment and to protect Plaintiff's rights.

COUNT IV

RLUIPA – SUBSTANTIAL BURDEN

71. Plaintiff repeats and realleges paragraphs 1-60 of the Complaint as if set forth in their entirety in Count IV.

72. Defendant has deprived and continues to deprive Plaintiff of its right to the free exercise of religion as secured by the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 2000cc, *et seq.* ("RLUIPA"), by imposing and implementing a land use regulation that imposes a substantial burden on Plaintiff's religious exercise.

73. RLUIPA applies to Plaintiff because Defendant's actions under the Zoning Ordinance and UDO constitute the implementation of a land use regulation or system of land use regulations, under which the government makes, or has in place formal or informal procedures or practices that permit the government to make, individualized assessments of the proposed uses for the property involved.

74. Defendant's denial of Plaintiff's Petition is a substantial burden on Plaintiff's exercise of religion because it usurps Plaintiff's right to determine and define what constitutes a religious act.

75. Defendant's denial of Plaintiff's Petition further substantially burdens Plaintiff's exercise of religion because it deprives Plaintiff's members of the right to perform the charitable works which God calls upon them to perform and, in so doing, severs them from the Gospel's precepts. Such a deprivation is qualitatively the same as if Defendant had prohibited Plaintiff from building a church or engaging in prayer.

76. Defendant cannot demonstrate that the substantial burdens imposed on Plaintiff's religious exercise are in furtherance of any compelling governmental interest and Defendant cannot demonstrate that the land use regulation at issue is the least restrictive means to further any compelling governmental interest.

WHEREFORE, Plaintiff respectfully requests the following relief from this Court:

- A. A declaratory judgment that Defendant's denial of the Petition is null and void, as an act in derogation of the Illinois Constitution pursuant to 28 U.S.C. § 2201 and/or 28 U.S.C. § 2202;

- B. A declaratory judgment that Plaintiff shall have the right to develop and use the Subject Property in the manner proposed in the Petition pursuant to 28 U.S.C. § 2201 and/or 28 U.S.C. § 2202;
- C. An injunction directing Defendant to approve the conditional use and height variation ordinances requested in the Petition and to reflect the same on the zoning map that includes the Subject Property pursuant to Fed. R. Civ. P. 65(d);
- D. Attorney's fees and the costs of this proceeding pursuant to 42 U.S.C. § 1988(b); and
- E. Such other and further relief as may be necessary and appropriate to effectuate the Court's judgment and to protect Plaintiff's rights.

COUNT V

DE NOVO REVIEW – SUBSTANTIVE DUE PROCESS

77. Plaintiff repeats and realleges paragraphs 1-60 of the Complaint as if set forth in their entirety in Count V.

78. 55 ILCS 5/5-12012.1 provides that a county board's decision in regard to an application for a special use or variance shall be subject to de novo review as a legislative decision.

79. Plaintiff's proposed uses satisfied all of the conditions set forth in the Zoning Ordinance, and Plaintiff's proposed variation satisfied all of the conditions set forth in the UDO.

80. Defendant's denial of the Petition was arbitrary, capricious, and unreasonable insofar as Defendant's decision was based on findings with no factual support in the record, and which were actually contradicted by the undisputed testimony given by Plaintiff's experts.

WHEREFORE, Plaintiff respectfully requests the following relief from this Court:

- F. A declaratory judgment that Defendant's denial of the Petition is null and void, as an act in derogation of the Illinois Constitution pursuant to 28 U.S.C. § 2201 and/or 28 U.S.C. § 2202;
- G. A declaratory judgment that Plaintiff shall have the right to develop and use the Subject Property in the manner proposed in the Petition pursuant to 28 U.S.C. § 2201 and/or 28 U.S.C. § 2202;
- H. An injunction directing Defendant to approve the conditional use and height variation ordinances requested in the Petition and to reflect the same on the zoning map that includes the Subject Property pursuant to Fed. R. Civ. P. 65(d);
- I. Attorney's fees and the costs of this proceeding pursuant to 42 U.S.C. § 1988(b); and
- J. Such other and further relief as may be necessary and appropriate to effectuate the Court's judgment and to protect Plaintiff's rights.

COUNT VI

ILLINOIS RELIGIOUS FREEDOM RESTORATION ACT

81. Plaintiff repeats and realleges paragraphs 1-60 of the Complaint as if set forth in their entirety in Count VI.

82. Defendant has substantially burdened and continues to substantially burden Plaintiff's exercise of religion by denying Plaintiff's Petition. *See* paragraphs 74-75, *supra*.

83. Defendant's denial of Plaintiff's Petition is not in furtherance of a compelling governmental interest and is not the least restrictive means of furthering any compelling governmental interest.

WHEREFORE, Plaintiff respectfully requests the following relief from this Court:

- A. A declaratory judgment that Defendant's denial of the Petition is null and void, as an act in derogation of the Illinois Constitution pursuant to 28 U.S.C. § 2201 and/or 28 U.S.C. § 2202;
- B. A declaratory judgment that Plaintiff shall have the right to develop and use the Subject Property in the manner proposed in the Petition pursuant to 28 U.S.C. § 2201 and/or 28 U.S.C. § 2202;
- C. An injunction directing Defendant to approve the conditional use and height variation ordinances requested in the Petition and to reflect the same on the zoning map that includes the Subject Property pursuant to Fed. R. Civ. P. 65(d);
- D. Attorney's fees and the costs of this proceeding pursuant to 42 U.S.C. § 1988(b); and
- E. Such other and further relief as may be necessary and appropriate to effectuate the Court's judgment and to protect Plaintiff's rights.

Date: December 16, 2015

Respectfully submitted,

FRATERNITÉ NOTRE DAME, INC.

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