

4. Admitted in part, denied in part. It is admitted only that this Court has jurisdiction of the matter set forth in Plaintiff's Complaint. The remaining allegations are denied. It is further denied that Plaintiff has or can establish sufficient grounds for a preliminary injunction or temporary restraining order, and it is denied that Plaintiff has set forth any grounds for such relief in its Complaint.

5. Admitted.

6. Admitted in part, denied in part. It is admitted that Plaintiff is Adhi Parasakthi Charitable, Medical, Educational and Cultural Society of North America. Defendant is without sufficient information or knowledge to determine the remainder of the allegations, and the same are accordingly denied.

7. Denied. After reasonable investigation, Defendant is without sufficient knowledge or information to determine the truth of the averments in this paragraph, and therefore they are denied.

8. Admitted in part, denied in part. It is admitted that the referenced property is situated in West Pikeland Township, Chester County, Pennsylvania. Defendant is without sufficient knowledge or information to determine the truth of the remainder of the averments in this paragraph, and the same are accordingly denied.

9. Denied. After reasonable investigation, Defendant is without sufficient knowledge or information to determine the truth of the averments in this paragraph, and therefore they are denied.

10. Admitted in part, denied in part. It is admitted that Plaintiff obtained special exception approval, with conditions, from the Township Zoning Hearing Board in 2002. The

Zoning Hearing Board's 2002 conditional special exception approval is a document that speaks for itself, and any characterization thereof by Plaintiff is denied.

11. Admitted in part, denied in part. It is admitted that Plaintiff obtained special exception approval, with conditions, from the Township Zoning Hearing Board in 2002. The Zoning Hearing Board's 2002 conditional special exception approval is a document that speaks for itself, and any characterization thereof by Plaintiff is denied.

12. Admitted in part, denied in part. It is admitted that Plaintiff filed a conditional use application with the West Pikeland Township Board of Supervisors in October of 2008 in an effort to expand its use of the property. The remainder of the allegations of this paragraph are denied.

13. Admitted in part, denied in part. It is admitted that Plaintiff has submitted a conditional use application, which would require Plaintiff to demolish Class II Historic Resources on the property in order for Plaintiff to construct a 26,370 square foot religious building, together with a 9,100 square foot auxiliary building. The remainder of the allegations of this paragraph are denied.

14. Denied.

15. Admitted in part, denied in part. It is admitted that the "temple" and "auxiliary building" proposed by Plaintiff will cover an aggregate of 35,470 square feet and that the subject property is 24.5 acres in area. The remainder of the allegations are denied. It is further noted, as was set forth in the Township's written decision on the conditional use application, that any development on the property is subject to the restrictions imposed against the property pursuant to the October 19, 1998 Wilson Farms subdivision (whereby any

development on the Subject Property is restricted to a 2.68 acre area). The “temple” and “auxiliary building” alone will cover approximately .81 acres, or 30% of the 2.68 acres available for development. Such does not take into account the impervious coverage for parking, the driveways and the other improvements proposed by Plaintiff (some of which Plaintiff improperly proposed to situate outside of the 2.68 acre restricted area).

16. Admitted in part, denied in part. It is admitted that Plaintiff stated that its intent is to use the proposed buildings for, *inter alia*, worshiping purposes. The remainder of the allegations of this paragraph are denied.

17. Admitted in part, denied in part. It is admitted that eight (8) hearings on Plaintiff’s conditional use application were held before the Township Board of Supervisors at the Township building. All of the remaining allegations and characterizations of this paragraph are denied.

18. Admitted in part, denied in part. It is admitted that eight (8) hearings on Plaintiff’s conditional use application were held before the Township Board of Supervisors. It is denied that a hearing was held on January 8, 2008 (noting that such hearing was held on January 8, 2009).

19. Denied. Any characterization of the testimony presented by Plaintiff or any party during the conditional use hearings is denied.

20. Denied. After reasonable investigation, Defendant is without sufficient knowledge or information to determine the truth of the averments, and therefore they are denied.

21. Denied. After reasonable investigation, Defendant is without sufficient knowledge or information to determine the truth of the averments, and therefore they are denied.

22. Denied. Any characterization of the testimony presented by Plaintiff, of the analysis of the Township Engineer, or by any other party during the conditional use hearings is denied.

23. Admitted in part, denied in part. It is admitted that the Township Board of Supervisors, sitting in a quasi-judicial capacity in hearing the conditional use decision, afforded Plaintiff, the Township residents and other parties the due process to which they were entitled under the federal and state constitutions in being permitted to participate as parties during the conditional use proceedings. The remainder of the allegations of this paragraph are denied.

24. Admitted in part, denied in part. It is admitted that the Township Board of Supervisors, sitting in a quasi-judicial capacity in hearing the conditional use decision, afforded the parties the due process to which they are entitled by allowing such parties an opportunity to ask questions of Plaintiff's witnesses and to present their own witnesses. The remainder of the allegations of this paragraph, including Plaintiff's characterizations of statements made during the conditional use hearings, are denied.

25. Denied. After reasonable investigation, Defendant is without sufficient knowledge or information to determine the truth of the averments, and therefore they are denied. By way of further response, this allegation is irrelevant and immaterial to the issues presently before the Court.

26. Admitted in part, denied in part. It is admitted that certain parties and residents in the proceedings expressed concerns as to how the structures proposed by Plaintiff would impact flooding, water supply, traffic and environmental considerations – zoning issues that would be considered with any development of the size proposed by Plaintiff. Any characterization by Plaintiff of the concerns by the residents is denied.

27. Admitted in part, denied in part. It is admitted that the Township Board of Supervisors rendered a decision on Plaintiff's conditional use decision on March 16, 2009, which decision is attached to the Complaint. The remainder of the allegations of this paragraph are denied.

28. Denied. The introductory paragraph to Paragraph 28, together with subparts a) through s) are denied.

29. Denied.

30. Admitted in part, denied in part. It is admitted that Plaintiff seeks to construct a temple building and auxiliary building. The remainder of the averments of this paragraph are denied.

31. Admitted.

32. Admitted in part, denied in part. It is admitted that a "church or similar place of worship" is a permitted use (being by right, by conditional use or by special exception) under the Township's Zoning Ordinance in the RD Residential Development District, the RC Residential and Conservation District, the V-1 Village Preservation District and the V-2 Village Preservation District. The remainder of the allegations of this paragraph are denied.

33. Denied. The Township's Zoning Ordinance is a document that speaks for itself and any characterization thereof by Plaintiff is denied.

34. Denied.

35. Denied.

36. Denied.

37. Denied.

38. Denied.

Count I – First Amendment – Free Speech and Assembly Claim

39. Defendant incorporates by reference its answers to Paragraphs 1 through 38, inclusive as if set forth at length.

40. Denied.

41. Denied.

42. Denied.

43. Denied.

44. Denied.

45. Denied.

46. Denied.

47. Denied.

48. Denied.

49. Denied.

50. Denied.

Count II – First Amendment – Free Exercise Claim

51. Defendant incorporates by reference its answers to Paragraphs 1 through 50, inclusive as if set forth at length.

52. Denied.

53. Denied.

54. Denied.

55. Denied.

56. Denied.

Count III – Fourteenth Amendment Claim

57. Defendant incorporates by reference its answers to Paragraphs 1 through 56, inclusive as if set forth at length.

58. Denied.

59. Denied.

60. Denied.

61. Denied.

62. Denied.

Count IV – RLUIPA

63. Defendant incorporates by reference its answers to Paragraphs 1 through 62, inclusive as if set forth at length.

64. Admitted.

65. Denied.

66. Denied.

67. Denied.

68. Denied.

69. Denied.

70. Denied.

71. Denied.

Count V – RLUIPA

72. Defendant incorporates by reference its answers to Paragraphs 1 through 71, inclusive as if set forth at length.

73. Denied.

74. Denied.

75. Denied.

76. Denied.

77. Denied.

78. Denied.

79. Denied.

Count VI – RFPA

80. Defendant incorporates by reference its answers to Paragraphs 1 through 79, inclusive as if set forth at length.

81. Admitted.

82. Denied.

83. Denied.

84. Denied.

85. Denied.

86. Denied.

87. Denied.

88. Denied.

89. Denied.

90. Denied.

91. Denied.

Count VII – Mandamus and Superintending Control

92. Defendant incorporates by reference its answers to Paragraphs 1 through 91, inclusive as if set forth at length.

93. Denied.

94. Denied.

95. Denied.

96. Denied.

97. Denied.

98. Denied.

99. Denied.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state any claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Defendant did not violate clearly established law and, at all times concerned with this litigation, acted in a manner which was proper, reasonable and lawful and in the exercise of good faith and, as such, enjoy not only a right to qualified immunity but also a right not to go to trial as articulated in Mitchell v. Forsyth, 105 S.Ct.2806.

THIRD AFFIRMATIVE DEFENSE

If plaintiff suffered any damages as alleged, then such damages were caused by Plaintiff's own willful and malicious conduct and/or negligent, reckless and/or intentional conduct and not by any alleged civil rights violations.

FOURTH AFFIRMATIVE DEFENSE

If plaintiff suffered any injuries and/or damages, his injuries and/or damages were not caused by any ordinance, action, policy, practice or custom of the Defendant West Pikeland Township.

FIFTH AFFIRMATIVE DEFENSE

At all times relevant hereto, Defendant acted reasonably, prudently, properly, conscientiously and with the fullest due care, in accordance with all applicable laws and regulations.

SIXTH AFFIRMATIVE DEFENSE

Defendants assert that at all times they acted properly regarding the above captioned matter. However, if it is judicially determined that they acted negligently and violated fully established law, defendants remain immune from the imposition of damages pursuant to Daniels v. Williams, 106 S.Ct. 662 (1986) and Davidson v. Cannon, 106 S.Ct. 668 (1986).

SEVENTH AFFIRMATIVE DEFENSE

Defendants assert all statutory and common law immunities available to them under case law and the Civil Rights Act of 1871.

EIGHTH AFFIRMATIVE DEFENSE

By the Act of October 5, 1980, P.L. 693, 142, 42 Pa.C.S. §8541 et seq., a municipality is immune and shall not be held liable for any damages on account of any injury to a person or property caused by the action of the local municipality, or its employee, or any other person, unless that act shall fall within one of the specifically enumerated exceptions. The claims of the plaintiffs asserted herein do not come within any of the exceptions set forth in §8542 of said Act.

NINTH AFFIRMATIVE DEFENSE

Defendant denies any liability to the Plaintiff as a matter of law, said liability having been barred by the doctrine of governmental immunity of aforesaid.

TENTH AFFIRMATIVE DEFENSE

Defendant asserts all the defenses, immunities and limitations of damages available to it under the Political Subdivision Tort Claims Act.

ELEVENTH AFFIRMATIVE DEFENSE

At all time relevant hereto, individual Defendant acted reasonably, prudently, properly, conscientiously and with the fullest due care, in accordance with all applicable laws, ordinances and regulations.

TWELFTH AFFIRMATIVE DEFENSE

Plaintiff's claims for compensatory damages on his pendent state claims are barred or limited by 42 Pa.C.S. §8553.

THIRTEENTH AFFIRMATIVE DEFENSE

Plaintiff is not entitled, as a matter of law, to monetary damages under the Pennsylvania Constitution or the Pennsylvania Religious Freedom Protection Act, 71 P.S. § 2405(f).

FOURTEENTH AFFIRMATIVE DEFENSE

If Plaintiff suffered any injuries and/or damages, Plaintiff failed to properly mitigate its alleged damages.

FIFTEENTH AFFIRMATIVE DEFENSE

In filing this Complaint against Defendant, Plaintiff has instituted this action for an improper purpose, namely, to harass and cause Township unnecessary aggravation and expense.

SIXTEENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by the doctrines of collateral estoppel and res judicata.

SEVENTEENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by the doctrine of laches.

EIGHTEENTH AFFIRMATIVE DEFENSE

The Religious Land Uses and Institutionalized Persons Act, 42 U.S.C. § 2000cc, is unconstitutional; such legislation exceeds Congress' enforcement powers under Section 5 of the Fourteenth Amendment; violates the separation of powers doctrine; was an *ultra vires* act by

Congress; and violates the Tenth Amendment to the United States Constitution. City of Boerne v. Flores, 521 U.S. 507, 117 S. Ct. 2157 (1997).

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