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Church*

11  
12 **IN THE UNITED STATES DISTRICT COURT**  
13 **FOR THE DISTRICT OF ARIZONA**

14  
15 GETHSEMANI BAPTIST CHURCH, an  
16 Arizona nonprofit corporation,

17 Plaintiff,

18 v.

19 CITY OF SAN LUIS, a political subdivision  
of the State of Arizona; NIEVES G.  
20 RIEDEL, in her individual capacity; JENNY  
TORRES, in her individual capacity;  
21 ALEXIS GOMEZ CORDOVA, in his  
individual capacity,

22 Defendants.  
23

No.

**VERIFIED COMPLAINT**

(Jury Trial Demanded)

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1 For its Verified Complaint, Plaintiff alleges as follows:

2 **PRELIMINARY STATEMENT**

3 1. For decades, Plaintiff Gethsemani Baptist Church (the “Church”) has  
4 operated a food ministry as part of its religious mission to support some of the most  
5 vulnerable families in the southernmost part of Yuma County and across the border in  
6 Mexico. Through this ministry, the Church fills a critical need in the City of San Luis (the  
7 “City”) by sharing the Gospel and donating food and other supplies, which it ferries to its  
8 property using a semi-truck. Because no other food ministries exist within the City, the  
9 Church’s charitable activities have been a blessing for the community, with the City often  
10 celebrating or even participating in the Church’s ministry efforts.

11 2. However, the election of a new mayor in December 2022 heralded a major  
12 shift in the City’s approach. Although the Church had operated the food ministry in the  
13 same manner for approximately twenty-three years without complaint, the City suddenly  
14 turned hostile, bombarding the Church with a series of accusations that the Church’s use of  
15 its property and semi-trucks violate the City’s Zoning Code, and threatening to take  
16 enforcement action if the Church does not cease its operations. Although the Church  
17 disclaimed that any of its operations were currently illegal, and committed to rectifying any  
18 potential issues moving forward, Defendants refused to even discuss a solution that would  
19 allow the ministry to continue—even resorting to citing the Church’s pastor for passing out  
20 food to just a few hungry people. Accordingly, the Church has been forced to bring this  
21 action to protect its ability to exercise its religious beliefs.

22 3. Defendants’ actions heavily burden the Church’s religious exercise, violating  
23 its constitutional and statutory rights. The Church accordingly seeks declaratory and  
24 equitable relief and nominal damages to prevent the City of San Luis and named Defendants  
25 from violating its fundamental rights to share the Gospel by feeding the hungry.

26 **PARTIES, JURISDICTION, AND VENUE**

27 4. Plaintiff Gethsemani Baptist Church is an Arizona 501(c)(3) nonprofit  
28 religious organization located in an R1-6 Single Residence Zoning District at 1010 B Street,

1 San Luis, AZ 85349, only a couple of blocks from the Mexico border. The Church is led by  
2 Pastor Jose Manuel Castro (“Pastor Castro”).

3 5. Defendant City of San Luis is a city located in Yuma County, Arizona, and is  
4 organized pursuant to Title 9 of the Arizona Revised Statutes.

5 6. Defendant Nieves G. Riedel is the Mayor of San Luis and is named in her  
6 individual capacity.

7 7. Defendant Jenny Torres is the Acting City Manager of San Luis and is named  
8 in her individual capacity.

9 8. Defendant Alexis Gomez Cordova is a City Code Enforcement Officer of San  
10 Luis and is named in his individual capacity.

11 9. This civil rights action raises federal questions under the United States  
12 Constitution, the Civil Rights Act of 1871, 42 U.S.C. § 1983, and the Religious Land Use  
13 and Institutionalized Persons Act (“RLUIPA”), 42 U.S.C. § 2000cc *et seq.*, and state-law  
14 questions under the Arizona Free Exercise of Religion Act (“FERA”), A.R.S. §§ 41-1493  
15 *et seq.*

16 10. This Court has original jurisdiction over the federal claims under 28 U.S.C.  
17 §§ 1331 and 1343, and it has supplemental jurisdiction over the state-law claims under 28  
18 U.S.C. § 1367 because those claims form part of the same case or controversy as the claims  
19 brough under federal law.

20 11. For the federal claims, this Court can grant the requested declaratory and  
21 injunctive relief under 28 U.S.C. §§ 2201–02 and Federal Rules of Civil Procedure 57 and  
22 65, and for the state-law claims, it can grant the requested relief under A.R.S. §§ 41-  
23 1493.01(D), 12-1801, 12-1831, and Arizona Rule of Civil Procedure 65.

24 12. The Court can award the requested nominal damages for the federal claims  
25 under 28 U.S.C. § 1343, and it can grant costs and attorneys’ fees for all claims under 42  
26 U.S.C. § 1988 and A.R.S. 41-1493.01(D).

27 13. Venue in the District of Arizona is proper under 28 U.S.C. § 1391(e) because  
28 (a) a substantial part of the events and omissions giving rise to the claim occurred in this

1 district—namely, the City’s attempted enforcement of its zoning laws against the Church,  
2 and (b) a substantial part of property that is the subject of the action is situated in the district.

3 **GENERAL ALLEGATIONS**

4 **I. Since 1999, the Church Has Operated a Food Ministry to Serve the Local San**  
5 **Luis Community.**

6 14. Gethsemani Baptist Church is a member of the Arizona Southern Baptist  
7 Convention and has been an integral part of the City since its founding in 1986.

8 15. In December 1999, the Church began the Gethsemani Food Ministry (the  
9 “Food Ministry”) as an expression of its religious beliefs encompassed by its motto,  
10 “Passion for God, Compassion for Others.”

11 16. As an extension of its dedication to sharing the Gospel with the community,  
12 the Food Ministry’s religious mission is to “help and provide for every necessity expressing  
13 the love and purpose of God for everyone.”<sup>1</sup>

14 17. The Church’s religious beliefs stem directly from Jesus’ teachings in Matthew  
15 25:35–40, which states: “For I was hungry, and you fed me. I was thirsty, and you gave me  
16 a drink. I was a stranger, and you invited me into your home. I was naked, and you gave me  
17 clothing. I was sick, and you cared for me. I was in prison, and you visited me.”

18 18. Similar teachings appear throughout Scripture: “It is a sin to despise one’s  
19 neighbor, but blessed is the one who is kind to the needy . . . whoever is kind to the needy  
20 honors God.” *Proverbs* 14:21, 31 (New Int’l Version) (“NIV”). “He upholds the cause of  
21 the oppressed and gives food to the hungry.” *Psalms* 146:7 (NIV). “Suppose there is a  
22 righteous man who does what is just and right . . . He does not commit robbery but gives  
23 his food to the hungry and provides clothing for the naked.” *Ezekiel* 18:5, 7 (NIV).

24 19. For nearly 25 years, the Church has distributed food, clothing, water, and  
25 other household supplies to the poor and needy in its community through the Food Ministry.

26 20. In addition to hosting food drives throughout the week, the Church served  
27

28 <sup>1</sup> <https://www.gethsemanifoodministry.org/en/food-ministry>.

1 approximately three hundred families every Saturday between 7:00 a.m. and 11:00 a.m.,  
2 where it often shares the Gospel and provides Bibles and other religious literature to any  
3 willing individuals who come to receive free food.

4 21. Additionally, the Church sometimes donates excess food and supplies to other  
5 churches or community programs with similar missional convictions.

6 22. During the life of the Food Ministry, the Church has distributed hundreds of  
7 thousands of pounds of free food to the poor, other churches and ministries both inside and  
8 outside the City, and even across the border into Mexico.

9 23. While the Church primarily serves the City's community and its neighbors  
10 across the Mexico border, it has provided food to families in Somerton, Yuma, and nearby  
11 cities in California.

12 24. The Church regularly provides free food and supplies to hungry migrants and  
13 has seen this part of its ministry increase in recent years.

14 25. The Church does not require proof of need or any other qualifications before  
15 offering its help. If someone has a need, the Church seeks to meet that need as an extension  
16 of its Gospel-based mission.

17 26. The Church has donated over 1,500 free Thanksgiving turkey plates, given  
18 away over 100 bicycles, and distributed thousands of personal hygiene products. And  
19 during the pandemic, the Church organized approximately 15 drive-thru events, which  
20 served over 400 impoverished families, thereby ensuring that their access to essential needs  
21 remained uninterrupted.

22 27. The Food Ministry is largely supported by other churches and organizations  
23 throughout the southwestern United States, who either donate pallets of food to the Church  
24 directly or provide funding to purchase supplies and cover overhead costs.

25 28. The Church occasionally accepts small, voluntary donations from  
26 congregants or other community members who wish to support both the Church and the  
27 Food Ministry, as well as support the Church's other ministerial outreach to prisons,  
28 orphanages, and senior centers.

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1           29.     However, the Church does not charge any fee to those receiving free meals.  
2           30.     For about 14 years, the Church stored most of its food and other supplies at a  
3 warehouse owned by the City.  
4           31.     The Church has also used a semi-truck to transfer food to its property to  
5 facilitate its distribution efforts since around 2002.  
6           32.     After picking up food from the warehouse, the semi-truck would drive in from  
7 B Street and then turn into the large, paved parking lot in front of the Church, where it  
8 unloads the food. It would then depart on Babbitt Lane, which is located parallel to B Street  
9 on the other side of the church.



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21           33.     Typically, any food that was dropped off by the semi-truck would be  
22 temporarily kept in the sanctuary for distribution to the needy, and would either be donated  
23 by the end of the day or taken back to the warehouse. While some non-perishable food was  
24 also historically stored longer on Church property, the Church dramatically reduced that  
25 amount to the bare minimum over the last several months and committed to ensuring that  
26 nothing is stored long-term.

27           34.     Further, all loading and unloading took place in the Church's parking lot, and  
28 at no point did the Church unload or park the semi-trucks on residential streets around it.

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1 35. The Church has also never received any kind of citation for health code  
2 violations, and it has passed every annual inspection from the County—including one only  
3 a couple of months ago.

4 36. When not in use, the two semi-trucks owned by the Church, as well as a  
5 couple of smaller box trucks with trailers, are stored approximately half a mile from the  
6 Church in a business complex.

7 37. Since 2012, when the City adopted its current Zoning Code, the Church and  
8 its Food Ministry were treated as a “legal nonconforming use,” meaning that it could  
9 continue to operate in the residential zone. As relevant here, § 18.80.030 of the Zoning Code  
10 provides that a “legal nonconforming use may continue only in the manner and to the extent  
11 that it existed at the time of such enactment, amendment, or annexation.”

12 38. While the Food Ministry has certainly grown in scale in the years since its  
13 founding, requiring larger trucks as early as 2002 to effectively transport food and supplies,  
14 it has not dramatically changed in scope or character since the Zoning Code was adopted.

15 **II. Despite Decades of Cooperation, Defendants Suddenly Demand that the**  
16 **Church Cease Operating its Food Ministry.**

17 39. For most of the Church’s history, the Church and its Food Ministry had a  
18 positive working relationship with the City, which had never complained about the Food  
19 Ministry’s operations nor informed the Church that its use of semi-trucks on its property  
20 violated the City Code.

21 40. In fact, not only was the City well aware of the Church’s Food Ministry and  
22 use of semi-trucks, but it actively supported it.

23 41. For instance, the City occasionally provided the Church with grant money to  
24 support its ministry.

25 42. Multiple previous city councilmembers helped with the Food Ministry in the  
26 past, often participating in food drives that took place on City property.

27 43. And on several occasions, the Church’s semi-trucks were invited by the City  
28 to participate in parades and other community events, such as Safety Day and Founder’s

1 Day. During these events, over 100 people would receive free meals as part of the Church’s  
2 outreach efforts.

3 44. However, when Mayor Nieves was elected in late 2022, everything changed.

4 45. The Mayor made clear that the Church’s Food Ministry would receive no  
5 more support from the City.

6 46. Shortly after taking office, the Mayor informed the Church that it could no  
7 longer use the City warehouse to store food or supplies—forcing the Church to move nearly  
8 100 pallets of food to a different warehouse located outside the City.

9 47. Although there is a public park across from the Church, the Mayor would not  
10 allow the Church to utilize any of that area for activities related to its Food Ministry.

11 48. The Mayor also unsuccessfully attempted to veto the City Council’s approval  
12 of approximately \$7,000 in grant money, which the City had frequently given to the Church  
13 in the past. The City Council overrode her attempted veto.

14 49. Then, on September 11, 2023, Pastor Castro received a letter from Acting  
15 City Manager Jenny Torres, with the Mayor’s knowledge and at her direction, informing  
16 the Church that “per city code semi-trucks are not permitted in residential areas,” and that  
17 the City would “commence enforcement at the church of the no semi-trucks in the  
18 residential neighborhood.” [Ex. A, 09/11/2023 Enforcement Letter from Torres to Castro.]

19 50. Attached to the letter were several Code provisions, including:

- 20 • § 10.15.245, which provides that “[u]pon any street outside  
21 of a business or residence district, no person shall stop, park  
22 or leave standing any vehicle, whether attended or  
23 unattended, upon the paved or main traveled part of the  
24 roadway when it is practicable to stop, park or so leave the  
25 vehicle off that part of the roadway.”
- 26 • § 10.15.250, which provides that “[n]o person shall stand or  
27 park a vehicle with a rated chassis capacity in excess of  
28 three-fourths of a ton or a tractor, semitrailer, trailer or bus  
on a local street in a residential area except during the  
process of loading or unloading the vehicle.
- § 10.15.255, which provides in relevant part that (A) “[t]he  
parking of any commercial vehicle of more than one-and-  
one-half-tons’ capacity on any lot in any residential area  
shall be considered a commercial use and is prohibited,” and  
that (D) “[n]o person shall stop, stand, park or store a

1 disabled vehicle or vehicles, or a trailer or a trailer loaded  
2 with a vehicle, on any street, alley or right-of-way in any  
3 residential or commercial area of the City for a period of  
more than two hours.”

4 51. This enforcement threat came as a surprise to the Church, as it did not use the  
5 street to park the semi-truck.

6 52. And to the extent it used its own parking lot to load and unload the truck, the  
7 Church agreed that it would keep those efforts to under two hours, as permitted by City  
8 Code §§ 10.15.250 and -255(D). [Ex. B, 09/27/2023 Letter from J. Dalfanso to City.]

9 53. The Church does not concede that it cannot engage in appropriate food  
10 storage on its property, nor that a semi-truck may not park on or near its property for brief  
11 periods of time, in accordance with the City Code. Nevertheless, to avoid police  
12 enforcement in the short term, the Church immediately began unloading the semi-truck at  
13 a location approximately one mile away from its property and utilizing a small trailer to  
14 ferry food and supplies to the Church.

15 54. This change immediately and significantly hampered the Church’s ministry  
16 efforts and drastically reduced the food distribution to no more than 50 people.

17 55. But the City and Mayor’s efforts did not stop there. On September 29, 2023,  
18 the City Planning and Zoning Commission (“P&Z”), through City Code Enforcer Alexis  
19 Gomez Cordova, sent a Notice of Zoning Violation to the Church stating that the Food  
20 Ministry itself violated the City’s zoning code. [Ex. C, 09/29/2023 Letter from P&Z to  
21 Castro.]

22 56. Specifically, the letter stated that although it considered the Church and its  
23 Food Ministry to be a legal non-conforming use under § 18.80.030, the “distribution,  
24 storage, and traffic generated by the food distribution activity clearly alter the nature and  
25 character of the non-conforming use, constituting an illegal change to the non-conforming  
26 use.” [*Id.*]

27 57. Accordingly, Defendants, under letterhead from P&Z, demanded that the  
28 Church “rectify these violations” within thirty days and stated that such rectification

1 “includes ceasing all commercial level food storage or distribution.” [*Id.*] The City also  
2 reserved the right to pursue all legal remedies against the Church. [*Id.*]

3 58. On September 27, 2023, during a City Council meeting, Pastor Castro and  
4 over 100 community members pled with the Council and the Mayor to allow the Church to  
5 have its semi-truck enter the Church parking lot to load and unload the food for up to two  
6 hours in compliance with City Code.

7 59. Pastor Castro also emphasized that the Food Ministry was a charitable  
8 religious ministry, not a commercial business.

9 60. However, the City and Mayor Nieves simply ignored the Church’s pleas. On  
10 October 4, 2023, Mayor Nieves sent a letter in which she reiterated that food distribution  
11 on the Church’s property violated the City’s zoning code and advised the Church that the  
12 only place the food distribution would be permitted in the City is in a commercial or  
13 industrial zoning district. [Ex. D, 10/04/2023 Letter from Nieves to Castro.]

14 61. On November 2, 2023, the Church sent a letter to Mayor Nieves and the City  
15 Council informing them that the City’s actions were unconstitutional, and that the City had  
16 misapplied its Code against the Church regarding the use of semi-trucks. [Ex. E, 11/02/2023  
17 Letter from Provident Law to City Council.]

18 62. However, in its response on November 7, 2023, the City continued to insist  
19 that the Food Ministry constituted “commercial food storage, preparation, or distribution,”  
20 because, according to the letter, (1) Pastor Castro did not operate the ministry at 1010 B  
21 Street until 2018, (2) the distribution activities had increased in both nature and intensity  
22 over time, and (3) the Church was being used to warehouse and distribute “thousands of  
23 pounds” of food. [Ex. F, 11/07/2023 Letter from City to Provident Law.]<sup>2</sup>

24 63. Accordingly, the City stated that that under Code § 18.100.030, the Church  
25

26 <sup>2</sup> The November 7 Letter suggests that the food distribution previously took place in another  
27 location near 530 Archibald Street, which is located in a general commercial zone. This  
28 location served as the licensing address for a mobile kitchen, which was not directly part of  
the Food Ministry that has always taken place on church property. [Ex. G, 11/13/2023 Letter  
from Provident Law to City, at 2–3.]

1 could not operate the Food Ministry without a Conditional Use Permit (“CUP”)—which,  
2 based on the Church’s previous interactions with the Mayor and City Council, would be a  
3 fruitless and cost prohibitive effort. [*Id.*]

4 64. However, the City’s justifications for requiring the Church to apply for a CUP  
5 are simply incorrect.

6 65. First, Pastor Castro has been loading and unloading semi-trucks of food on  
7 the Church’s property at 1010 B Street almost every day for nearly 20 years—a fact which  
8 the City was not only aware of, but actively supported. [Ex. G, 11/13/2023 Letter from  
9 Provident Law to City, at 2–3.]

10 66. Moreover, the Church does not store “thousands of pounds” of food on its  
11 property. Again, most of the Church’s food is stored off-site, and any food on Church  
12 property is either donated that day or taken back to the warehouse. And although some long-  
13 term food storage took place on its property in the past, the Church has actively taken steps  
14 to ensure that is no longer an issue. [*Id.* at 1–3.]

15 67. Finally, the Church proposed that it would no longer request small donations  
16 to remove any misconceptions that the Food Ministry was a commercial effort.

17 68. Nevertheless, Defendants refused to budge. On December 7, 2023, the City  
18 sent the Church another letter accusing the Church of “routinely operating vehicles in a way  
19 that violates numerous provisions of the San Luis City Code and the laws of the State of  
20 Arizona,” parking the truck on its property, and violating an unspecified list of “traffic and  
21 motor vehicle laws.” [Ex. H, 12/07/2023 Letter from City to Provident Law, at 1–2.]

22 69. It also continued to insist that the Church was engaged in “commercial level  
23 food distribution” that required a CUP, and suggested that the Church was posing a “public  
24 nuisance” and a health risk by “storing” food on the property. [*Id.*]

25 70. Because of Defendants’ threats, the Church ceased almost all Food Ministry  
26 efforts and cancelled multiple events, including its annual Thanksgiving turkey drive-thru  
27 and its Christmas toy drive.

28 71. However, Defendants’ crusade against the Church still did not abate.

1 **III. Defendants Have Escalated Their Intimidation Crusade Against the Church**  
2 **by Threatening and Extracting Civil and Criminal Penalties on its Pastor.**

3 72. On February 22, 2024, Pastor Castro was handing out small quantities of  
4 emergency food supplies to a small group of about 10 people, which he was actively  
5 unloading from the small box truck in the Church parking lot. At the time, approximately  
6 two pallets of food were present on Church property.

7 73. Without warning, under direction from the City and the Mayor, City Code  
8 Enforcer Gomez Cordova entered the Church property and issued four citations against  
9 Pastor Castro for (1) unspecified “[u]se of property . . . not permitted in” a residential zone  
10 under City Code § 18.05.110(A), and (2) “construction” of an enclosing wall, shade  
11 structure, and walk-in cooler “without a building permit” under City Code § 15.10.990(A),  
12 even though all of those structures were built by the Church nearly 30 years ago. [Ex. I,  
13 02/22/2024 Citation Form.]

14 74. Less than a week later, on February 28, 2024, there was a mistake with a  
15 donation delivery. The semi-truck driver was supposed to deliver supplies to another  
16 location, away from the Church, but he showed up at the Church instead. Pastor Castro  
17 immediately ran outside and asked the driver to take the truck away. Although the truck  
18 was parked for only 5 minutes at most, that was enough for Defendants.

19 75. The next day, on February 29, 2024, City Code Enforcer Gomez Cordova  
20 arrived at the Church with three City vehicles—two police motorcycles, a City Code  
21 Enforcement Specialist truck, a City Transit Enforcement truck—and was accompanied by  
22 a police officer. With this entourage in tow, City Code Enforcer Gomez Cordova cited  
23 Pastor Castro with identical code violations. [Ex. J, 02/29/2024 Citation Form.]

24 76. The City Code Enforcer indicated that the City had heard that a semi-truck  
25 was parked in front of the Church the previous day and demanded information about the  
26 third-party that owned the truck. However, Pastor Castro refused to say anything or show  
27 the bill of lading, out of fear of getting anyone else in trouble with the City.

28 77. On March 1, 2024, Pastor Castro heard City workers say that he needs to

1 understand that the Food Ministry will be shut down completely.

2 78. As these two incidents show, Defendants are now attempting to extract civil  
3 and potentially criminal penalties against the Church’s pastor for feeding the hungry and  
4 having structures on its property that have been in plain sight for decades. That Pastor Castro  
5 was cited the second time, for a third-party’s mistake, shows an ongoing and increasing  
6 pattern of harassment and intimidation against the Church to stop its ministry efforts.

7 79. The Church and its pastor face a severe financial hardship to pay up to \$4,000  
8 in fines stemming from these citations over its Food Ministry infrastructure and deliveries.

9 80. If the Church’s pastor is cited one more time, the penalties will increase  
10 significantly, as he could be criminally cited with a Class 1 Misdemeanor, and will face  
11 another \$2,500 fine, imprisonment for no more than 6 months, or both. SLCC § 18.05.110.

12 81. These incidents caused great embarrassment and frustration to Pastor Castro.

13 82. The Church is worried that if another third party parks in front of the Church  
14 by mistake, without invitation from the Church, its pastor may go to jail.

15 83. But despite these aggressive tactics against the Church, Defendants do not  
16 appear to be treating similarly situated entities in the residential neighborhood equally.

17 84. Within blocks of the Church, 18-wheeler semi-trucks and other commercial  
18 vehicles from FedEx, furniture stores, buses, food trucks, a tow truck company, and a local  
19 Head Start program are frequently seen parking, loading, and unloading on residential  
20 streets and residences—sometimes, for hours or days at a time.

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1 85. On information and belief, the City has not threatened or formally taken any  
2 enforcement action against any of these similarly situated entities.

3 **IV. Defendants’ Selective Enforcement and Intimidation Have Harmed the**  
4 **Church’s Ability to Continue its Ministry.**

5 86. Ultimately, the Church’s only interest is its ability to exercise its religious  
6 beliefs. This includes (1) operating the Food Ministry on its property, as it has done since  
7 1999, and (2) using the semi-truck to load and unload food for the two hours permitted by  
8 City Code. The Church is open to working with the City on how to accomplish this.

9 87. If Defendants prevent the Church from operating its Food Ministry on its  
10 property, there is nowhere else it could functionally continue, as the Church does not have  
11 the funding or resources to buy another building. Moreover, the City, at the direction of  
12 Mayor Nieves, refuses to allow the Church to use any public property, city warehouse, or  
13 public park—including the park bordering the Church’s property—to engage in its relief  
14 efforts and religious exercise.

15 88. As a direct result of Defendants’ actions, between September 2023 and March  
16 3, 2024, the Church had to significantly curtail its Food Ministry. During that time, the  
17 Church stopped using necessary infrastructure to easily transport food and supplies, and it  
18 has not been able to serve the number of needy that it could before.

19 89. On March 4, 2024, the Church paused its Food Ministry completely in  
20 response to the second round of zoning citations issued to Pastor Castro the week before.  
21 The Church and its pastor cannot afford the mounting fines and possibility of criminal  
22 penalties that might incur if it continues its efforts to feed the hungry in the community. As  
23 a result, the Church has, at least temporarily, lost one of its primary methods of sharing the  
24 Gospel in the City.

25 90. Defendants’ actions have forced the Church to reject donations and tell  
26 would-be donors that it cannot accept food and supplies. The Church built these charitable  
27 relationships over the course of decades. Its inability to receive donations threatens those  
28 relationships, especially with farmers who currently provide the Food Ministry with fresh

1 produce, and may result in permanent loss of donors.

2 91. These harms not only prevent the Church from feeding the hungry in the City  
3 but also interfere with the Church’s ability to share the Gospel and follow Jesus’ commands.

4 **FIRST CLAIM FOR RELIEF**

5 **Religious Land Use and Institutionalized Persons Act (42 U.S.C. § 2000cc)**  
6 **Substantial Burden**

7 92. Plaintiff incorporates the allegations set forth above as if fully set forth herein.

8 93. Under RULIPA, the government is prohibited from “impos[ing] or  
9 implement[ing] a land use regulation in a manner that imposes a substantial burden on the  
10 religious exercise of a person, including a religious assembly or institution, unless the  
11 government can demonstrate that imposition of the burden on that person, assembly, or  
12 institution[] (A) is in furtherance of a compelling governmental interest; and (B) is the least  
13 restrictive means of furthering that compelling governmental interest.” 42 U.S.C. §  
14 2000cc(a)(1).

15 94. Defendants’ zoning codes and ordinances constitute land use regulations  
16 under RLUIPA.

17 95. Several courts have expressly recognized that food distribution to the poor  
18 and needy is religious exercise. *See, e.g., Harbor Missionary Church Corp. v. City of San*  
19 *Buenaventura*, 642 F. App’x 726, 727–29 (9th Cir. 2016) (finding that the church’s  
20 homeless ministry, which included offering food, was “an integral part of its religious  
21 exercise.”); *W. Presbyterian Church v. Bd. of Zoning Adjustment of D.C.*, 862 F. Supp. 538,  
22 544 (D.D.C. 1994) (recognizing that “acts of charity as an essential part of religious worship  
23 is a central tenet of all major religions,” and finding that a church’s feeding program was  
24 “religious conduct falling within the protections of the First Amendment and the RFRA.”).

25 96. Moreover, for a burden to be considered “substantial,” it “must place more  
26 than an inconvenience on religious exercise.” *Guru Nanak Sikh Soc’y of Yuba City v.*  
27 *County of Sutter*, 456 F.3d 978, 985 (9th Cir. 2006) (denial of CUP application constituted  
28 a substantial burden under RLUIPA).

1 97. Defendants’ efforts to stop the Church from conducting its Food Ministry at  
2 its current location, when the Church cannot afford to relocate, substantially burden the  
3 Church’s religious exercise. *See Harbor Missionary Church*, 642 F. App’x at 729 (the  
4 “City’s denial of a [CUP] prevents the Church from conducting its homeless ministry at its  
5 current location,” and the “substantial cost associated with relocating the site of the Church  
6 demonstrates that the denial of the [CUP] substantially burdens the Church’s religious  
7 exercise.”).

8 98. By effectively prohibiting the Church from operating its Food Ministry on its  
9 property, as well as barring the Church from loading and unloading semi-trucks in its  
10 parking lot, Defendants are imposing a residential land use restriction against the Church.  
11 *See Yellowbear v. Lambert*, 741 F.3d 48, 55–56 (10th Cir. 2014) (Gorsuch, J.) (whenever  
12 the government “prevents the plaintiff from participating in [a religious] activity,” giving  
13 the plaintiff no “degree of choice in the matter,” that action “easily” imposes a substantial  
14 burden on religious exercise); *see also United States v. Hoffman*, 436 F. Supp. 3d 1272,  
15 1285 (D. Ariz. 2020) (finding a substantial burden where “enforcement of [] regulations”  
16 threatened defendants to “coerce them, via criminal sanctions, into abandoning conduct that  
17 is an exercise of religion” (simplified)).

18 99. The Church’s Food Ministry is fundamental to the Church’s free exercise and  
19 cannot be severed from its other religious practices. *Harbor Missionary Church*, 642 F.  
20 App’x at 729 (finding that “[t]he district court erred by questioning the validity of the  
21 Church’s religious beliefs and by determining that its homeless ministry could be divided  
22 piecemeal when the Church insisted on the importance of keeping its homeless ministry as  
23 a whole at the same location.”)

24 100. Defendants have imposed a substantial burden on the Church’s religious  
25 exercise by improperly classifying the Food Ministry as a “commercial” operation and  
26 demanding that it cease and desist unless the Church applies for a CUP.

27 101. Similarly, Defendants have substantially burdened the Food Ministry’s  
28 operation by prohibiting the Church from even temporarily loading and unloading its semi-

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1 truck on its parking lot for the two hours permitted by City Code.

2 102. Due to Defendants' demands, the Church has been forced to halt nearly all  
3 operations related to its Food Ministry, including transporting food using the smaller box  
4 trailer, which has dramatically reduced the number of people the Church can assist.

5 103. The Church cannot afford to comply with the City's demand that it obtain a  
6 CUP. And even if it could, Defendants' hostility towards the ministry over the last several  
7 months illustrates that its application would almost certainly be denied.

8 104. As demonstrated by previous support of the Food Ministry over the last 25  
9 years, its treatment as a non-conforming use, and the Church's commitment to abide by all  
10 health and safety requirements, the City has no compelling interest in either prohibiting the  
11 ministry outright or substantially curtailing its operations.

12 105. Nor does the City have any interest in prohibiting the Church from loading  
13 and unloading its semi-trucks in compliance with City Code §§ 10.15.250 and -255(D).

14 106. And even if the City does have some interest in enforcing its Zoning Code,  
15 its efforts are not narrowly tailored, as it has refused to allow the ministry to continue even  
16 though the Church has moved almost all food storage off its property and agreed to abide  
17 by all laws regarding the use of its semi-truck.

18 107. This lack of tailoring is especially evident from the Defendants' decision to  
19 cite Pastor Castro for distributing emergency food supplies to only ten hungry people.

20 108. As a direct and proximate result of Defendants' RLUIPA violation, the  
21 Church has suffered and will continue to suffer irreparable harm, including the loss of its  
22 statutorily protected rights, entitling it to declaratory and injunctive relief, nominal  
23 damages, and attorneys' fees.

24 109. Accordingly, Plaintiff seeks (1) a declaration that Defendants' restrictions on  
25 the Church's Food Ministry violate RLUIPA; (2) an order enjoining Defendants from taking  
26 any enforcement actions on this basis; and (3) an award of nominal damages.

27  
28

1 **SECOND CLAIM FOR RELIEF**

2 **Religious Land Use and Institutionalized Persons Act (42 U.S.C. § 2000cc)**  
3 **Equal Terms**

4 110. Plaintiff incorporates the allegations set forth above as if fully set forth herein.

5 111. Under RLUIPA, the government may not “impose or implement a land use  
6 regulation in a manner that treats a religious assembly or institution on less than equal terms  
7 with a nonreligious assembly or institution.” 42 U.S.C. § 2000cc(b)(2).

8 112. The City’s interests in enforcing its zoning ordinances do not grant it a license  
9 to treat the Church worse than comparable institutions. Indeed, under RLUIPA’s  
10 straightforward Equal Terms proscription, the City’s motives for treating a religious  
11 institution unequally are irrelevant and this Court may not consider them. *See Centro*  
12 *Familiar Cristiano Buenas Nuevas v. City of Yuma*, 651 F.3d 1163, 1170 (9th Cir. 2011).  
13 The text of the Equal Terms provision does not provide an interest-balancing test “to see if  
14 the government can excuse the equal terms violation.” *Id.* at 1171 (simplified); *see also id.*  
15 (explaining “we cannot accept the notion that a ‘compelling governmental interest’ is an  
16 exception to the equal terms provision, or that the church has the burden of proving a  
17 ‘substantial burden’ under the equal terms provision”); *River of Life Kingdom Ministries v.*  
18 *Village of Hazel Crest*, 611 F.3d 367, 389 (7th Cir. 2010) (Sykes, J., dissenting) (explaining  
19 this provision “reflects a congressional judgment about state and local regulation of  
20 religious land uses: Regulations that treat religious assemblies or institutions less well than  
21 nonreligious assemblies or institutions are inherently not neutral”); *Lighthouse Inst. for*  
22 *Evangelism, Inc. v. City of Long Branch*, 510 F.3d 253 (3d Cir. 2007) (Jordan, J., concurring  
23 in part and dissenting in part) (centering the RLUIPA Equal Terms inquiry on a city’s  
24 zoning objectives would give it “a ready tool for rendering [the Equal Terms provision]  
25 practically meaningless”).

26 113. Importantly, the “burden is not on the church to show a similarly situated  
27 secular assembly, but on the [Defendants] *to show that the treatment received by the church*  
28 *should not be deemed unequal*, where it appears to be unequal on the face of the ordinance.”

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1 *Id.* at 1173 (emphasis added). It is sufficient that Defendants have treated religious  
2 institutions and nonreligious institutions on less than equal terms.

3 114. While Defendants have employed aggressive tactics, including cease-and-  
4 desist letters and even civil and possible criminal citations against the Church’s pastor, to  
5 stop the use of semi-trucks at the Church for its Food Ministry, upon information and belief,  
6 Defendants turn a blind eye to the use of 18-wheeler semi-trucks or other commercial  
7 vehicles for hours (and even days) at a time at nearby nonreligious entities, including  
8 FedEx, furniture stores, buses, food trucks, a tow truck company, and a local Head Start  
9 program.

10 115. Defendants’ application of the City’s ordinances violates RLUIPA because it  
11 treats the Church on less than equal terms compared to comparable nonreligious charitable  
12 programs and similarly situated for-profit commercial enterprises located just blocks away  
13 within the same zone.

14 116. As a direct and proximate result of Defendants’ RLUIPA violation, the  
15 Church has suffered and will continue to suffer irreparable harm, including the loss of its  
16 statutorily protected rights, entitling it to declaratory and injunctive relief, nominal  
17 damages, and attorneys’ fees.

18 117. Accordingly, Plaintiff seeks (1) a declaration that Defendants’ restrictions on  
19 the Church’s Food Ministry violate RLUIPA; (2) an order enjoining Defendants from taking  
20 any enforcement actions on this basis; and (3) an award of nominal damages.

21 **THIRD CLAIM FOR RELIEF**

22 **Free Exercise of Religion, U.S. Const. amend. I and XIV**  
23 **42 U.S.C. § 1983**

24 118. Plaintiff incorporates the allegations set forth above as if fully set forth herein.

25 119. The Free Exercise Clause, which applies to the States under the Fourteenth  
26 Amendment, “withdraws from [governmental] power . . . the exertion of any restraint on  
27 the free exercise of religion.” *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203, 222–  
28 23 (1963). The purpose of this clause “is to secure religious liberty in the individual by

1 prohibiting any invasions thereof by civil authority.” *Id.*

2 120. The Free Exercise Clause “forbids subtle departures from neutrality” and  
3 “covert suppression of religious beliefs.” *Church of Lukumi Babalu Aye, Inc. v. City of*  
4 *Hialeah*, 508 U.S. 520, 534 (1993).

5 121. “General applicability requires, among other things, that the laws be enforced  
6 evenhandedly.” *Waln v. Dysart Sch. Dist.*, 54 F.4th 1152, 1159 (9th Cir. 2022). But a “law  
7 is not ‘generally applicable’ if the law ‘impose[s] burdens only on conduct motivated by  
8 religious belief’ in a ‘selective manner.’” *Apache Stronghold v. United States*, 38 F.4th 742,  
9 770 (9th Cir. 2022) (vacated on other grounds) (quoting *Lukumi*, 508 U.S. at 533, 543).

10 122. The “government may not ‘treat *any* comparable secular activity more  
11 favorably than religious exercise” without violating these well-established principles.  
12 *Fellowship of Christian Athletes v. San Jose Unified Sch. Dist. Bd. Educ.*, 82 F.4th 664, 686  
13 (9th Cir. 2023) (en banc) (“*FCA*”) (quoting *Tandon v. Newsom*, 593 U.S. 61, 62 (2021)).

14 123. The Free Exercise Clause also protects against government actions that are  
15 coupled with “official expressions of hostility to religion,” whether subtle or overt. *FCA*,  
16 82 F.4th at 690. This is especially the case where “government actions [are] coupled with  
17 ‘official expressions of hostility to religion.’” *Id.* (quoting *Masterpiece Cakeshop, Ltd. v.*  
18 *Colo. Civ. Rts. Comm’n*, 584 U.S. 617, 639 (2018)).

19 124. As such, any governmental practice “burdening religious practice that is not  
20 neutral or not of general application must undergo the most rigorous of scrutiny” in which  
21 the government must advance “interests of the highest order” that are “narrowly tailored”  
22 to those interests. *Lukumi*, 508 U.S. at 546.

23 125. Defendants, although acting under color of law, are abusing the City Code in  
24 an attempt to prohibit the Church from exercising its sincerely held religious beliefs—to  
25 feed the hungry through its Food Ministry.

26 126. At first blush, Defendants’ reference to its Zoning Code suggest that they are  
27 merely attempting to enforce laws of general applicability.

28 127. However, Defendants’ misapplication of these laws against the Church—

1 including its improper classification of the Church’s operations as “commercial” and its  
2 refusal to permit the Church to operate its semi-truck even within the bounds of City Code—  
3 demonstrate that their actions are anything but.

4 128. This is especially true when the government has not applied similar  
5 enforcement against the use of semi-trucks and other commercial vehicles, including those  
6 delivering food, by similarly situated secular entities in the area. *Supra* ¶ 84.

7 129. Defendants have also exhibited unsolicited hostility against Pastor Castro and  
8 the Church. For instance, rather than working cooperatively to find a solution to their  
9 alleged concerns, Defendants have resorted to targeted intimidation efforts in an effort to  
10 shut down the Church’s religious practice—including by baselessly citing Pastor Castro for  
11 simply passing out food to the poor.

12 130. At the Mayor’s direction, the City has denied the Church access to a City-  
13 owned warehouse, to which the Church had previously enjoyed government-granted access  
14 to store donations and food for the Food Ministry.

15 131. The Mayor unsuccessfully attempted to veto a grant that the City wished to  
16 give to the Church, like it had done for years before, and she has overseen and directed  
17 efforts to stop the Food Ministry’s operations.

18 132. The Acting City Manager and City Code Enforcer have both taken direct steps  
19 to stop the Food Ministry from operating on the Church’s property by sending notices and  
20 cease-and-desist letters, and most recently, by repeatedly issuing citations to the Church’s  
21 pastor for activities and on-site structures related to the Food Ministry.

22 133. Defendants are not constitutionally permitted to suppress the Church’s  
23 religious exercise in this manner. Again, the City has no interest in prohibiting the Food  
24 Ministry, and its enforcement actions are not narrowly tailored.

25 134. As a direct and proximate result of Defendants’ constitutional violation, the  
26 Church has suffered and will continue to suffer irreparable harm, entitling it to declaratory  
27 and injunctive relief, nominal damages, and attorneys’ fees.

28 135. Accordingly, Plaintiff seeks (1) a declaration that Defendants’ restrictions on

1 the Church’s Food Ministry violate the Church’s free exercise of religion under the First  
2 and Fourteenth Amendments; (2) an order enjoining Defendants from taking any  
3 enforcement actions on this basis; and (3) an award of nominal damages.

4 **FOURTH CLAIM FOR RELIEF**

5 **Substantial Burden under Arizona Free Exercise of Religion Act**  
6 **(A.R.S. 41-1493 *et seq.*)**

7 136. Plaintiff incorporates the allegations set forth above as if fully set forth herein.

8 137. FERA declares that the “[f]ree exercise of religion is a fundamental right that  
9 applies in this state even if laws, rules or other government actions are facially neutral.”  
10 A.R.S. § 41-1493.01(A).

11 138. To bring a FERA claim, the plaintiff “must prove that: (1) [its] action or  
12 refusal to act is motivated by a religious belief, (2) the religious belief is sincerely held, and  
13 (3) the government’s regulation substantially burdens the free exercise of [its] religious  
14 beliefs.” *Brush & Nib Studio, LC v. City of Phoenix*, 247 Ariz. 269, 297 ¶ 127 (2019); *see*  
15 *also* A.R.S. §§ 41-1493(2), -1493.01(B). The burden then “shifts to the government to show  
16 that the law (1) furthers a compelling governmental interest and (2) is the “least restrictive  
17 means of furthering that compelling governmental interest.” *Brush & Nib*, 247 Ariz. at 297–  
18 98 ¶ 127; A.R.S. § 41-1493.01(B).

19 139. “Under the least restrictive means test, the government must “show[ ] that it  
20 lacks other means of achieving its desired goal without imposing a substantial burden on  
21 the exercise of religion by the objecting part[y].” *Brush & Nib*, 247 Ariz. at 302 ¶ 149 (citing  
22 *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 728 (2014)).

23 140. And even if the government can demonstrate a compelling interest, it “shall  
24 not impose or implement a land use regulation in a manner that imposes an unreasonable  
25 burden on a person's exercise of religion,” unless it demonstrates either:

- 26 a. “That the person's exercise of religion at a particular  
27 location violates religion-neutral zoning standards enacted  
28 into the government's laws at the time of the person's  
application for a permit,”

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- 1                   b. “That the person's exercise of religion at a particular
- 2                   location would be hazardous due to toxic uses in adjacent
- 3                   properties,” or
- 4                   c. “The existence of a suitable alternate property the person
- 5                   could use for the exercise of religion.” A.R.S. § 41-1493.03

6                   141. Once again, Defendants’ efforts to shut down the Church’s Food Ministry by

7                   improperly classifying it as a “commercial” entity, as well as its misapplication of the City

8                   Code to prohibit the Church from using its semi-trucks to transport food, substantially

9                   burdens the Church’s sincerely held religious beliefs.

10                  142. Because of Defendants’ demands and enforcement actions, the Church has

11                  been forced to cease almost all food distribution efforts. Indeed, Pastor Castro cannot even

12                  serve ten people on Church property without receiving a citation.

13                  143. And again, the City has no compelling interest in shutting down the ministry

14                  entirely, nor can it show that there are no other means of enforcing the Zoning Code while

15                  still allowing the Church to maintain its ministry.

16                  144. Even if the City did have a compelling interest, it cannot demonstrate (1) that

17                  the Church has violated any zoning laws that were in place when the Church began the Food

18                  Ministry in 1999, (2) that any of the Church’s activities are hazardous, or (3) that there is

19                  another financially feasible property to conduct the Food Ministry.

20                  145. Accordingly, Plaintiff seeks (1) a declaration that Defendants’ restrictions on

21                  the Church’s Food Ministry constitute a substantial burden in violation of FERA, and (2)

22                  an order enjoining Defendants from taking any enforcement actions on this basis.

**FIFTH CLAIM FOR RELIEF**

**Unequal Treatment under Arizona Free Exercise of Religion Act  
(A.R.S. 41-1493 *et seq.*)**

23                  146. Plaintiff incorporates the allegations set forth above as if fully set forth herein.

24                  147. FERA provides that the “[g]overnment shall not impose or implement a land

25                  use regulation in a manner that treats a religious assembly or institution on less than equal

26                  terms with a nonreligious assembly or institution, regardless of a compelling governmental

27                  interest.”

28

1 interest.” A.R.S. § 41-1493.03(B).

2 148. Despite imposing substantial burdens on the Church’s activities, and  
3 specifically its use of semi-trucks to facilitate the Food Ministry’s operations, Defendants  
4 have shown little interest in applying the rules to anyone else.

5 149. Indeed, over the last several months, Defendants have permitted 18-wheeler  
6 semi-trucks and other commercial vehicles to park, load, and unload in the residential  
7 zone—including at the local Head Start program only a couple of blocks away from the  
8 Church. *Supra* ¶ 84.

9 150. Applying the Zoning Code to the Church without imposing the same  
10 requirements on nonreligious properties in the same zone is certainly not treating the two  
11 on equal terms.

12 151. Accordingly, Plaintiff seeks (1) a declaration that Defendants’ restrictions on  
13 the Church’s Food Ministry constitute unequal treatment in violation of FERA, and (2) an  
14 order enjoining Defendants from taking any enforcement actions on this basis.

15 **REQUEST FOR RELIEF**

16 WHEREFORE, Plaintiff pray for:

17 A. A declaration pursuant to 28 U.S.C. §§ 2201–02, Federal Rule of Civil  
18 Procedure 57, A.R.S. § 12-1831, and other applicable law that Defendants’ restrictions on  
19 the Church’s Food Ministry violate Plaintiff’s rights under RLUIPA and the First and  
20 Fourteenth Amendments of the U.S. Constitution and constitute a substantial burden and  
21 unequal treatment in violation of FERA.

22 B. An injunction pursuant to 28 U.S.C. § 2202, Federal Rule of Civil Procedure  
23 65, A.R.S. § 12-1801, Arizona Rule of Civil Procedure 65, and other applicable law  
24 preliminarily and permanently enjoining Defendants from taking any enforcement action  
25 against the Church for operating the Food Ministry or lawfully loading and unloading semi-  
26 trucks on its property;

27 C. An award of nominal damages for all federal claims under 28 U.S.C. § 1343;

28 D. An order awarding Plaintiff’s attorney’s fees and nontaxable expenses

1 incurred in this action under 42 U.S.C. § 1988, A.R.S. § 41-1493.01(D), and any other  
2 applicable law; and

3 E. Such other relief as the Court deems necessary, equitable, proper, and just.

4 **JURY TRIAL DEMAND**

5 The Church demands a jury trial on all issues so triable.  
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DATED this 13th day of March, 2024.

SNELL & WILMER L.L.P.

By: /s/ Ryan J. Regula

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**VERIFICATION**

I, Jose Manuel Castro, have reviewed the foregoing Verified Complaint and verify under penalty of perjury that it is true and correct.

Dated: March 8, 2024

Jose Manuel Castro  
Pastor, Gethsemani Baptist Church

Snell & Wilmer

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Signed and sworn before me this 8<sup>th</sup> day of March, 2024.

Notary Public



# EXHIBIT A



P.O. Box 1170 | 1090 E. Union Street San Luis, AZ 85349 | P: (928) 341-8520 F: (928) 341-8539

September 11, 2023

Pastor Juan Manuel Castro  
Gethsemani Food Ministry  
P O Box 2067  
San Luis, Arizona 85349

RE: Gethsemani Church, 1010 B Street

Dear Pastor Castro,

This letter is to follow up on our meeting, Monday, September 11, 2023. During this meeting you were informed that per city code semi-trucks are not permitted in residential areas. The city has received multiple complaints from residents regarding the issue of the semi-trucks among other matters in relation to the operations at the church.

The city will commence enforcement at the church of the no semi-trucks in the residential neighborhood starting Monday, September 18, 2023. Police department will enforcement just as it is enforced in other areas where this type of violation takes place.

The city appreciates your service to this community and your cooperation to abide by city code to promote the safety and welfare of city residents and neighborhoods. Your attention and action on the matter is greatly appreciated.

Please feel free to reach out to us with questions and/or concerns that you may have on the above matter.

Respectfully,

Jenny Torres  
Acting City Manager

c File  
Kay M. Macuil, City Attorney  
Nigel Reynoso, Acting Chief of Police

### **10.15.255 Parking in residential or business districts.**

(A) The parking of any commercial vehicle of more than one-and-one-half-tons' capacity on any lot in any residential area shall be considered a commercial use and is prohibited.

(B) The parking of any vehicle on any lot in any residential or business district which is inoperable and is characterized by dents, breaks, cracking, peeling, rusting or lack of maintenance is prohibited.

(C) The parking and/or storage of boats, campers, travel trailers and motor homes are permitted in any residential or business areas; provided, that the vehicle does not extend beyond the property line into the street right-of-way, and that the vehicle shall not be used for living, sleeping or housekeeping purposes. In addition, the site clearance requirements of this Code shall be applicable.

(D) No person shall stop, stand, park or store a disabled vehicle or vehicles, or a trailer or a trailer loaded with a vehicle, on any street, alley or right-of-way in any residential or commercial area of the City for a period of more than two hours. Each vehicle or trailer shall be considered a separate violation. (Ord. 189 § 1, passed 8-11-2004; Ord. 226 § 1, passed 3-23-2005. Code 1982 § 10-3-13, Code 2012 § 72.31.)

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**The San Luis City Code is current through Ordinance 439, passed March 8, 2023.**

Disclaimer: The City Clerk's Office has the official version of the San Luis City Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website: [www.sanluisca.gov](http://www.sanluisca.gov)

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*Recibido en 03/12/2023*

## **CODIGOS DE LA CIUDAD DE SAN LUIS AZ.**

10.15.245

Stopping, standing or parking outside a residence or business district.

Upon any street outside of a business or residence district, no person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the paved or main traveled part of the roadway when it is practicable to stop, park or so leave the vehicle off that part of the roadway. (Ord. 189 § 1, passed 8-11-2004. Code 1982 § 10-3-10. Code 2012 § 72.29.)

10.15.250

### **Parking of commercial vehicles in residential areas.**

No person shall stand or park a vehicle with a rated chassis capacity in excess of three-fourths of a ton or a tractor, semitrailer, trailer or bus on a local street in a residential area except during the process of loading or unloading the vehicle. (Ord. 189 § 1, passed 8-11-2004. Code 1982 § 10-3-11. Code 2012 § 72.30.)

10.15.255

Parking in residential or business districts.

(A) The parking of any commercial vehicle of more than one-and-one-half-tons' capacity on any lot in any residential area shall be considered a commercial use and is prohibited.

(B) The parking of any vehicle on any lot in any residential or business district which is inoperable and is characterized by dents, breaks, cracking, peeling, rusting or lack of maintenance is prohibited.

(C) The parking and/or storage of boats, campers, travel trailers and motor homes are permitted in any residential or business areas; provided, that the vehicle does not extend beyond the property line into the street right-of-way, and that the vehicle shall not be used for living, sleeping or housekeeping purposes. In addition, the site clearance requirements of this Code shall be applicable.

(D) No person shall stop, stand, park or store a disabled vehicle or vehicles, or a trailer or a trailer loaded with a vehicle, on any street, alley or right-of-way in any residential or commercial area of the City for a period of more than two hours. Each vehicle or trailer shall be considered a separate violation. (Ord. 189 § 1, passed 8-11-2004; Ord. 226 § 1, passed 3-23-2005. Code 1982 § 10-3-13. Code 2012 § 72.31.)

## EXHIBIT B

Dear City of San Luis,

Over the past few weeks, I have been talking with other food ministries and even a few official food banks around the state of Arizona. I have come to the following conclusions regarding this situation in San Luis with Gethsemane Baptist Church and Food Ministry based on my research:

What Pastor Castro is operating at Gethsemane is a food ministry, not a food bank, mainly because food distribution is a part of their mission to the community. Since food distribution is a part of the mission of this church, I do not believe the City can cease the church's food distribution operations due to his residential zoning (R1-6, I believe); that is, unless he is violating city codes. And in fact, I have several examples of food ministries operating out of churches in residential areas throughout Arizona, including in larger urban areas like Phoenix (and one that is strikingly similar to Pastor Castro's at a church in Phoenix). In fact, in the far northern suburbs outside of Phoenix, there is a food bank being operated out of a house in a wealthy, residential area.

However, we agree, in order for Pastor Castro to operate his food ministry, he must be operating within existing city codes, which means, as we know, he cannot be parking large trucks, especially semi-trucks on his property; these trucks can only be present for drop-off and pick-up, per city code. As well, he must constantly ensure his food ministry is clean and not unsightly in the neighborhood, per code. (And in fact, I would like to see a situation where Pastor Castro is exceeding your code requirements, in a spirit of loving and honoring his neighbors and yourselves as city leadership. For example, he aims to ensure a driver is in the cab of every delivery truck for safety purposes during drop-off and pickup, etc.

Since Gethsemane is a food ministry and not a food bank, it is not a commercial operation. As such, his operation cannot be forced to move to a commercially-zoned part of town. We understand that his food ministry asking for donations from recipients makes it appear to be a business, i.e. a commercial operation. This conclusion is understandable...onsite donations would appear to make it a commercial operation. But Pastor Castro's goal is to cease asking for donations from food ministry recipients and operate as a solely charitable organization that develops a team of offline supporters who provide tax-deductible monthly or annual support to the ministry.

To summarize, we (myself and other food ministries in the state) believe if Pastor Castro has resolved city violations by ceasing parking commercial trucks on his property, addressing cleanliness and appearance issues, and ensuring donations are not explicitly requested at his food ministry, I believe all this leaves us with is the question of residential zoning. And it is very unclear to me how the City can shutdown Pastor Castro's food ministry based solely on the church's residential zoning. Therefore, I do not believe the City has the grounds to stop food distribution operations at Gethsemane Baptist Church property at 1010 e B Street.

This said, the Pastor's goal is to move the food ministry offsite to a commercial area, in order to please the neighborhood and the City. However, assuming this is financially possible, this will take months of time, requiring the raising of significant funds, the obtaining of a property, and the addition of some staff and/or additional volunteers.

Sincerely,

Joe Dalfonso

Church Ambassador Network of Arizona

## EXHIBIT C



# City of San Luis

## Planning & Zoning Department

Development Services • GIS • Building Safety • Code Enforcement

September 29, 2023

IGLESIA BAUTISTA GETHSEMANI  
Pastor Manuel Castro  
PO Box 3137  
San Luis, AZ 85349

Re: 1010 E B St.

Dear Pastor Castro,

The City of San Luis is dedicated to fostering a vibrant and healthy business community. While we encourage business growth, it is our responsibility to ensure that businesses do not create unsightly or detrimental conditions.

To this end, the City has established a variety of standards aimed at safeguarding the safety and quality of life for our residents, merchants, and visitors, particularly on commercial thoroughfares.

Our records indicate that you are the owner/agent of the property located at 1010 E. B Street in San Luis, Arizona. Our office has become aware of a change in the non-conforming use and the need for property maintenance. Unfortunately, this constitutes a violation of the City Code, specifically Chapter 18 Zoning, 18.100 NONCONFORMING USES, and IPMC 2018 Chapter 3 GENERAL REQUIREMENTS Section 302 EXTERIOR PROPERTY AREAS:

1. **18.80.030 Limitation on uses:** A legal nonconforming use may continue only in the manner and to the extent that it existed at the time of such enactment, amendment, or annexation.
2. **302.1 Sanitation:** Exterior property and premises shall be maintained in a clean, safe and sanitary condition.

The City adopted its zoning code in 2012, at which time the church was already established at this location and thus considered a legal non-conforming use. City Code §18.100.030 states, in part, that a legal non-conforming use may continue only in the manner and to the extent that it existed at the time of the enactment of the code provision or provisions that resulted in the non-conformity. It also specifies that a legal non-conforming use cannot be changed to a different non-conforming use.

The distribution, storage, and traffic generated by the food distribution activity clearly alter the nature and character of the non-conforming use, constituting an illegal change to a non-conforming use. Therefore, please be advised that the operation of a food distribution business is not considered a pre-existing non-conforming use at the premises located at 1010 E. B Street and is in violation of the City of San Luis Zoning Code.

existing non-conforming use at the premises located at 1010 E. B Street and is in violation of the City of San Luis Zoning Code.

Our goal with this letter is to inform you that your property is in violation of City Code Chapter 18 Zoning, 18.100, and IPMC 2018 Chapter 3 Section 302. Please also be advised that this may not be the full extent of non-compliance nor a complete listing of all violations of law. We are providing you with an opportunity to voluntarily rectify these violations within 30 days of receiving this letter. This includes ceasing all commercial level food storage or distribution. We greatly appreciate your cooperation and willingness to comply voluntarily. However, please be aware that if the property does not come into compliance, the City reserves the right to pursue any and all legal remedies.

If you have any further questions regarding this letter, please contact me at (928) 341-8565 or by email: [agomez@sanluisaz.gov](mailto:agomez@sanluisaz.gov)

Sincerely,



Alexis I. Gomez  
Code Enforcement Officer

## EXHIBIT D



P.O. Box 1170 | 1090 E. Union Street San Luis, AZ 85349 | P: (928) 341-8520 F: (928) 341-8539

October 4, 2023

Pastor Juan Manuel Castro  
Gethsemani Food Ministry  
P O Box 2067  
San Luis, Arizona 85349

RE: Digital Photo of Letter Dated September 14, 2023

Dear Pastor Castro,

The following letter is in response to correspondence addressed to Mayor on behalf of the Gethsemani Baptist Church. The city concurs with your statement as it relates to the social service the church through its ministry, has served over the course of 25 years, residents, and non-residents.

In those 25 years, the city has grown and so has your ministry services, and with growth comes changes.

In your letter you are asking for help in identifying a suitable parking facility to include storage and distribution of goods. In the last several months city staff and Mayor has met with you several times to address the various situations where the city over the years has assisted your ministry with monetary contributions and free storage space.

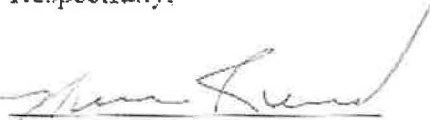
According to the zoning code that was adopted in 2012, the church's use is considered a legal non-conforming use. City Code §18.100.030 states that a legal non-conforming use may continue only in the same manner and to the same extent that it existed at the time the code provision was enacted, and it cannot be changed to a different non-conforming use.

The distribution, storage, and traffic generated by the food distribution activity clearly alter the nature and character of the non-conforming use. Therefore, the operation of a food distribution business at the premises located at 1010 E. B Street is not considered a pre-existing non-conforming use and is in violation of the City of San Luis Zoning Code.

However, this operation is permitted in a commercial or industrial zoning district. If you need assistance in identifying potential locations to relocate this operation, our Planning and Zoning staff would be happy to assist you in this regard. You can contact the Planning and Zoning Director, Jose A. Guzman, at (928) 919-8361 or via email at [jaguzman@sanluisaz.gov](mailto:jaguzman@sanluisaz.gov).

Our common objective is to serve the community. The city's top priority is to safeguard the public health, safety, and welfare of our residents through the implementation of our adopted regulations.

Respectfully,



Nieves Riedel  
Mayor

c File

Jenny Torres, Acting City Manager

Kay M. Macuil, City Attorney

Nigel Reynoso, Acting Chief of Police

## EXHIBIT E



## PROVIDENT LAW

**PROVIDENT LAW®**  
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**Erik W. Stanley, Esq.**  
Partner  
[erik@providentlawyers.com](mailto:erik@providentlawyers.com)

November 2, 2023

**Via Email Only to:**

City of San Luis, Arizona  
Mayor Nieves Riedel  
[nriedel@sanluisaz.gov](mailto:nriedel@sanluisaz.gov)

Acting City Manager Jenny Torres  
[jtorres@sanluisaz.gov](mailto:jtorres@sanluisaz.gov)

City Attorney Kay Macuil  
[kmacuil@sanluisaz.gov](mailto:kmacuil@sanluisaz.gov)

Acting Chief of Police Nigel Reynoso  
[nreynoso@sanluisaz.gov](mailto:nreynoso@sanluisaz.gov)

Director of Planning and Zoning Jose Guzman  
[jaguzman@sanluisaz.gov](mailto:jaguzman@sanluisaz.gov)

Code Enforcement Officer Alexis Gomez  
[agomez@sanluisaz.gov](mailto:agomez@sanluisaz.gov)

Re: *Gethsemani Baptist Church / Gethsemani Food Ministry*

Dear Mayor Nieves and City of San Luis Officials:

### **I. INTRODUCTION**

This law firm has been engaged to represent Gethsemani Baptist Church. I write to address the City's various enforcement actions against the Church that have resulted in the shutdown of Gethsemani's food ministry. This letter represents my client's good faith attempt to resolve its serious constitutional and statutory claims without resort to litigation. Please direct all communications regarding this matter to my office.

City of San Luis, Arizona  
November 2, 2023  
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## II. BACKGROUND

As you are no doubt aware, Gethsemani Baptist Church has been a part of San Luis for over thirty-five years. In December 1999 the Church began the Gethsemani Food ministry as an expression of its religious beliefs, encapsulated in the phrase “Passion for God, Compassion for others.” The Church’s religious beliefs flow directly from Jesus’ statement in Matthew 25:35-40, “For I was hungry, and you fed me. I was thirsty, and you gave me a drink. I was a stranger, and you invited me into your home. I was naked, and you gave me clothing. I was sick, and you cared for me. I was in prison, and you visited me.” The Church believes it has a religious duty to feed, clothe, and care for those in need.

The Church distributes food and, with those who are willing, shares the Gospel and distributes Bibles and religious literature to those who come to get food. The food ministry is fundamental to the life of the Church and it is a direct and tangible expression of the Church’s religious beliefs. During the life of the ministry, the Church has distributed hundreds of thousands of pounds of free food to residents of San Luis and to other ministries inside and outside the City and even across the border to the poor in Mexico. The Church provides over 1,500 free Thanksgiving turkey plates to the poor and needy, has given away over 100 bicycles to children, and distributed thousands of personal hygiene products to the needy. The Church has also distributed free water during high temperature days. It is common for the church to have upwards of 200 people who come to receive free food on the days the Church gives away food.

Indeed, it is not an overstatement to say that the ministries of Gethsemani Baptist Church have been integral to the life and health of the City of San Luis and its residents.

One way the Church handles the inflow and outflow of food and other materials it gives away is by unloading its semi-truck at its property. The semi-truck comes in from B Street and turns into the large, paved parking lot that is in front of the Church. The truck is unloaded off the street in front of the Church and then departs on Babbitt Lane.

On or about September 11, 2023, Pastor Jose Castro received a letter from Acting City Manager Jenny Torres. The letter informed Pastor Castro that “per city code semi-trucks are not permitted in residential areas.” The letter informed Pastor Castro that beginning on September 18, 2023, “The city will commence enforcement at the church of the no semi-trucks in the residential neighborhood.”

To avoid police enforcement against the Church, the Church has resorted to unloading the semi-truck at a location a mile away from the Church and ferrying the food and supplies to the Church in a small trailer. This has greatly hampered the Church’s food distribution efforts and, as a direct result of the City’s enforcement action, the Church has had to limit the food distribution to no more than fifty people.

Then, on or about September 29, the City Planning and Zoning Department sent a letter to the Church stating that the Church’s food ministry violated the City’s zoning code. The letter stated: “The distribution, storage, and traffic generated by the food distribution activity clearly alter the nature and character of



City of San Luis, Arizona  
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the non-conforming use, constituting an illegal change to a non-conforming use. Therefore, please be advised that the operation of a food distribution business is not considered a pre-existing non-conforming use at the premises located at 1010 E. B Street and is in violation of the City of San Luis Zoning Code.” The letter provided the church thirty days to “rectify these violations” and stated, “[t]his includes ceasing all commercial level food storage or distribution.” In the letter the City reserved the right to pursue all legal remedies against the Church.

Pastor Castro addressed the City Council at its meeting on September 27 to plead with the City Council to allow the Church to have its semi-truck enter the Church property and unload the food. Pastor Castro also made clear that the food distribution was a ministry and was not commercial activity.

In a letter dated October 4 to Pastor Castro, Mayor Nieves reiterated that the Church food distribution violated the City’s Zoning Code and advised the Church that the only place the food distribution would be allowed in the City is in a commercial or industrial zoning district.

As it currently stands, the Church has had to cease its food distribution ministry entirely. Code Enforcement Officer Alexis Gomez asked Pastor Castro to attend a meeting on November 1, thirty days after the Notice of Violation letter to determine if the Church intended to comply with the Notice of Violation.

### III. LEGAL CLAIMS

The City’s actions against the Church are unlawful and unconstitutional. The following are some of the claims the Church currently has against the City because of the unlawful enforcement actions taken by the City. There are likely additional claims the Church has other than those below.

#### A. The City’s zoning enforcement against the Church violates the federal Religious Land Use and Institutionalized Persons Act (“RLUIPA”), 42 U.S.C. § 2000cc, *et seq.*

RLUIPA provides that “[n]o government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution” unless the government demonstrates that the imposition of that burden is the least restrictive means of furthering a compelling governmental interest. 42 U.S.C. § 2000cc(a)(1). RLUIPA broadly defines “religious exercise” as “any exercise of religion, whether or not compelled by, or central to, a system of religious belief.” 42 U.S.C. § 2000cc5(7)(A). The Ninth Circuit Court of Appeals has stated that RLUIPA’s definition of religious exercise means “any religious exercise.” *Greene v. Solano Cnty. Jail*, 513 F.3d 982, 986 (9th Cir. 2008) (citing *Cutter v. Wilkinson*, 544 U.S. 709, 715 (2005)). RLUIPA itself states that it is to be “construed in favor of a broad protection of religious exercise, to the maximum extent permitted by the terms of this chapter and the Constitution.” 42 U.S.C. § 2000cc-3(g).

First, the distribution of food by the Church is plainly a form of religious exercise. Courts have held that food distribution is a time-honored form of religious exercise. *See, e.g., Harbor Missionary Church Corp.*



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*v. City of San Buenaventura*, 642 F. App'x 726, 727-29 (9th Cir. 2016) (finding that the church's homeless ministry, which included offering food, was "an integral part of its religious exercise"); *see also W. Presbyterian Church v. Bd. of Zoning Adjustment of D.C.*, 862 F. Supp. 538, 544 (D.D.C. 1994) (stating that the "concept of acts of charity as an essential part of religious worship is a central tenet of all major religions," including by providing "clothing for the naked, food for the hungry, and benevolence to the needy").

Second, the City's actions in shutting down or severely limiting the food ministry of the Church imposes a substantial burden on the Church. A land use regulation may impose a substantial burden if it exerts "substantial pressure on an adherent to modify his behavior and to violate his beliefs." *Guru Nanak Sikh Soc. Of Yuba City v. County of Sutter*, 456 F.3d 978, 988 (9th Cir. 2006). Indeed, "[G]overnment action that threatens 'punishment[] to coerce a religious adherent to forgo her or his religious beliefs'" may amount to a substantial burden. *Johnson v. Baker*, 23 F.4<sup>th</sup> 1209, 1215-16 (9<sup>th</sup> Cir. 2022) (quoting *Warsoldier v. Woodford*, 418 F.3d 989, 996 (9th Cir. 2005)).

Here the City's enforcement letter threatens enforcement through fines and penalties if the Church does not comply. Indeed, the Church has already ceased food distribution out of fear of penalties and enforcement actions. The City has substantially burdened the Church's religious beliefs.

Finally, the City has no compelling government interest to justify substantially burdening the Church's religious exercise. How could the City have any justifiable, let alone compelling, interest since the Church has been doing the food ministry for almost twenty-five years at its same location?

The City's zoning enforcement action has violated RLUIPA.

**B. The City's zoning enforcement against the Church violates Arizona's Free Exercise of Religion Act ("FERA"), A.R.S. §41-1493, et seq.**

Arizona's FERA mirrors the federal RLUIPA but is broader because it applies even to burdens on religious exercise that result from the enforcement of a rule of general applicability. *See* A.R.S. §41-1493.01(B). "[I]n 1999, the Arizona Legislature passed FERA to protect Arizona citizens' right to exercise their religious beliefs free from undue governmental interference." *Brush & Nib Studio, LC v. City of Phoenix*, 247 Ariz. 269, 297, ¶ 124 (2019).

Here, the City is requiring the Church to cease its religious exercise under threat of penalty. This is a substantial burden that the City has no compelling justification to impose on the Church.

**C. The City is engaging in retaliation by misapplying its Code regarding the use of semi-trucks.**

The City's ban on any semi-trucks as a part of the Church's food distribution ministry is contrary to the City's own Code which does not prohibit such use. City Code §10.15.245 only applies to stopping, parking, or leaving standing any vehicle "[u]pon any *street* outside of a business or residence district." (emphasis



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added). The Church does not park its truck on a street to unload and instead unloads in the paved parking lot in front of the Church.

Likewise, City Code §10.15.250 does not apply either because that section only prohibits parking a semitrailer “on a local street in a residential area except during the process of loading or unloading the vehicle.” Again, the Church does not park on the street, and, in any event, it is allowed to load or unload even under this Code section.

Finally, City Code §10.15.255(A) is inapplicable because it only applies to “The parking of any commercial vehicle of more than one-and-one-half-tons’ capacity on any lot in any residential area shall be considered a commercial use and is prohibited.” The Church’s truck is not a commercial vehicle but is instead a private vehicle owned by the Church that is engaged in the Church’s religious exercise and is not engaged in commercial activity.

Overall, the City is enforcing code sections that clearly do not apply to the Church in a retaliatory attempt to violate the Church’s constitutional and statutory rights.

#### IV. DEMAND

Given the blatantly unconstitutional and illegal actions taken by the City, this letter demands that the City respond immediately withdrawing its enforcement letter of September 11 regarding semi-trucks and withdraw its Notice of Zoning Violation letter of September 29.

To the extent that the Notice of Zoning Violation letter constitutes a requirement by the City’s Zoning Administrator or enforcement by the Zoning Administrator, please construe this letter as a Notice of Appeal, pursuant to City Code §18.10-030(B)(1) to the Board of Adjustment. It is my understanding that the City Council is acting in the position of the Board of Adjustment.

However, the City would do well to immediately respond to this letter withdrawing the letters referenced above and confirming that the Church’s food ministry may continue uninterrupted and unmolested by the City as it has for the last twenty-five years.

**Time is of the essence**; therefore, we respectfully request that you respond to this letter **no later than Wednesday, November 8, 2023**. Please understand that the Church does not desire litigation with the City and wants only a friendly and cooperative relationship with the City as it has had since it began thirty-five years ago. But the Church stands ready and willing to file a federal lawsuit against the City if necessary to preserve and protect its rights.

The City should also understand that actions under RLUIPA and FERA contain provisions where the City will be ordered to pay the Church’s attorneys’ fees and costs for successfully prosecuting an action under those provisions.



City of San Luis, Arizona  
November 2, 2023  
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I look forward to the City's favorable response to this letter.

Very truly yours,  
**PROVIDENT LAW®**



Erik W. Stanley  
Partner

Cc:	Gethsemani Baptist Church	(via email)
	Vice Mayor Luis Cabrera	( <a href="mailto:lcabrera@sanluisaz.gov">lcabrera@sanluisaz.gov</a> )
	Council Member Maria Cruz	( <a href="mailto:mcruz@sanluisaz.gov">mcruz@sanluisaz.gov</a> )
	Council Member Tadeo Azael De La Hoya	( <a href="mailto:tdelahoya@sanluisaz.gov">tdelahoya@sanluisaz.gov</a> )
	Council Member Matias Rosales	( <a href="mailto:mrosales@sanluisaz.gov">mrosales@sanluisaz.gov</a> )
	Council Member Gloria Torres	( <a href="mailto:gloriatorres@sanluisaz.gov">gloriatorres@sanluisaz.gov</a> )
	Council Member Javier Vargas	( <a href="mailto:jvargas@sanluisaz.gov">jvargas@sanluisaz.gov</a> )



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# EXHIBIT F



**CITY OF SAN LUIS**  
**OFFICE OF THE CITY ATTORNEY**  
P.O. Box 1170  
San Luis, Arizona 85349-1170  
Telephone (928) 314-9117

November 7, 2023

Mr. Eric W. Stanley, Esq.  
Provident Law  
16100 N. 71<sup>st</sup> Street, Suite 350  
Scottsdale, Arizona 85254  
[Via e-mail Erik@providentlawyers.com](mailto:Erik@providentlawyers.com)  
and  
[Via Certified Mail #7021 1970 0001 5530 5394](#)

Re: Gethsemani Baptist Church / Gethsemani Food Ministry

Dear Mr. Stanley:

This letter is in response to your correspondence of November 2, 2023. As indicated in last week's e-mail, the City of San Luis ("City") believes that you have not been given the accurate history of the Gethsemani Baptist Church or the Gethsemani Food Ministry.

**History**

The building for Gethsemani Baptist Church ("Gethsemani"), located at 1010 B Street, San Luis, Arizona, was established pursuant to a building permit issued on October 10, 1987, and a permit for a covered patio was issued on December 12, 1999. The building is a conventional structure without any utility service or equipment for commercial-level food storage, preparation, or distribution being installed. When the church was established, the City of San Luis ("City"), for its zoning regulation, used a portion of the County zoning regulations that were in effect when the City was incorporated in the late 70s. Section 603.03(a) of said regulations required a special use permit for a church to exist in a residential area. The City has no record of such a permit ever being applied for or issued. However, the City did issue the building permit, and no claim is made that Gethsemani Baptist Church may not continue to hold religious services at that location. (However, it is to be noted that religious services at that location have decreased through the years.)

Both past and current zoning for the area is residential. Current regulations require a conditional use permit to establish a religious institution in the zone. No application for

Eric W. Stanley  
Re: Gethsemani Baptist Church / Gethsemani Food Ministry  
November 7, 2023  
Page 2

such a conditional use permit has ever been submitted. Because the City issued a building permit for the religious structure on the property, the City is presently treating the building as a legal nonconforming use. However, as stated in Section 18.100.030 of the City Code: "A legal nonconforming use may continue only in the manner and to the extent that it existed at the time of such enactment, amendment, or annexation." Said section continues in subsection b: "A legal nonconforming use shall not be changed to a different nonconforming use." It is important to point out that commercial food storage, preparation, or distribution from city records does not appear to have been established at the location of 1010 B Street until 2018.

As to the history of food distribution, on March 22, 2010, the location given for food distribution was 520 Archibald Street, which is in a general commercial zone. On July 29, 2010, the location shifted to 517 N. 1st Ave, which is near 520 Archibald and also in a general commercial zoning district. According to the business licenses issued from 2011 through 2018, the business location for food storage and distribution remained at 520 Archibald Street. In 2018, Pastor Castro filed an information update that changed the address to 1010 B Street. At the time he submitted this update, he signed a notice that, in part, gives notice that the issuance of a business license by the City shall not be construed as authority to engage in any activity which is in violation of any other law or regulation to which the activity is subject, or to conduct activities on the property in violation of the zoning ordinance.

It is also important to point out the nature and intensity of food distribution activity by Gethsemani has also changed. The food started out small, using small trucks. It now uses tractor-trailer rigs. It began with small quantities of food distributed from commercial parking lots. One donated listened to a sermon, then got one's food. Now, religious services are only once a week, no sermons at the time of food, but still, it appears one donates money for food. 1010 B Street serves as a place of warehousing and distribution for thousands of pounds of food headed to other locations in Yuma County as well as Mexico. The City has received information that food is sold by Gethsemani to stores for commercial distribution. This is clearly a commercial activity, not religious activity.

The City adopted a new zoning code in 2012. Those regulations can be seen online through the City's website. Between October 29, 2020, and November 16, 2022, there were four predevelopment meetings for 1010 B Street. The desire was to enclose the patio and construct a two-story building for classrooms. During these meetings, the City informed Gethsemani that any expansion to the church would trigger the requirement of a Conditional Use Permit. There was no follow-up, no applications for either a Conditional Use Permit or any expansion were ever submitted, and therefore, no expansion occurred.

Eric W. Stanley  
Re: Gethsemani Baptist Church / Gethsemani Food Ministry  
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The change in activity at 1010 B Street to include commercial-level food storage and food distribution requires either a rezoning or a conditional use permit to be legal. Which one would depend on the intensity of the use as commercial food storage and distribution.

Also of concern are health and safety issues. For refrigeration of the food, Gethsemani relies on the refrigeration units on the tractor-trailers. This is not an appropriate substitute for walk-in coolers. Gethsemani stored 50-gallon drums of vegetable oil until they became rancid and a fire hazard. Even then, Pastor Castro was reluctant to dispose of them. Neighbors in the area report rats and other vermin using the food at 1010 B Street as their food source. The City has received multiple reports of folks having to hire exterminators due to Gethsemani's operations.

Further, the food distribution activity generates both vehicular and foot traffic, which adversely impacts the residential neighborhood.

### **Law**

Court decisions indicate that the free exercise clause of the First Amendment does not require that religiously affiliated secular uses be given any greater protection than nonsectarian uses serving similar functions. See *Forest Hills Early Learning Center, Inc. v. Lukhard*, 728 F.2d 230 (4th Cir. 1984) (daycare center); *Hull v. Miami Shores Village*, 435 So. 2d 868 (Fla. Dist. Ct. App. 3d Dist. 1983) (administrative offices); *St. John's Evangelical Lutheran Church v. City of Hoboken*, 195 N.J. Super. 414, 479 A.2d 935 (Law Div. 1983) (shelter for the homeless).

Courts have upheld the requirement of seeking a special permit to locate a church in a residential neighborhood. *Tran v. Gwinn*, 262 Va. 572, 554 S.E.2d 63 (2001) (upholding ordinance imposing special permit requirement for place of worship in a residential area since ordinance was neutral generally applicable law that imposed only a minimal and incidental burden on religion).

Requiring Gethsemani to locate its food storage and distribution activity separate from its church building is not a substantial burden under the Religious Land Use and Institutionalized Persons Act ("R.L.U.I.P.A."). For thirty years, from 1988 through 2018, it would appear that food distribution occurred elsewhere. The Church can still hold religious services in the building at 1010 B Street. There are other properties from which Gethsemani can store or distribute food. *Church of Our Savior v. City of Jacksonville Beach*, M.D.Fla.2014, 69 F.Supp.3d 1299, reconsideration denied 108 F.Supp.3d 1259.

Courts do not view financial burdens involved in locating a suitable alternate site as a substantial burden under R.L.U.I.P.A. *Church of Scientology of Georgia, Inc. v. City of Sandy Springs, Ga.*, N.D.Ga.2012, 843 F.Supp.2d 1328.

Eric W. Stanley

Re: Gethsemani Baptist Church / Gethsemani Food Ministry

November 7, 2023

Page 4

The City of San Luis is not preventing the church or its members from assembling or engaging in their religious practices within the City, the church and members are not being treated in a discriminatory manner, and they are not being pressured to abandon their beliefs or forgo religious activities. *Grace Church of Roaring Fork Valley v. Board of County Com'rs of Pitkin County*, Colorado, D.Colo.2010, 742 F.Supp.2d 1156. The present situation is not unlike the one in *Roman Catholic Bishop of Springfield v. City of Springfield*, 724 F.3d 78, 99–100 (1st Cir. 2013) wherein it was held that enactment of a zoning ordinance did not substantially burden plaintiff's religious exercise because (1) nothing in the ordinance indicates religious hostility; (2) the ordinance does not target religious practice, and (3) a financial burden or the threat of statutory penalties did not impose a substantial burden. Again, religious services can continue at 1010 B Street. All the City is requesting is relocation of food storage and distribution to a different location, like what appears to have occurred until 2018.

A religious organization's commercial endeavors do not constitute "religious exercise" protected by R.L.U.I.P.A., even if undertaken to fund the organization's religious mission. Food distribution by Gethsemani is presently a significant commercial endeavor. *California-Nevada Annual Conf. of the Methodist Church v. City and Cnty. of San Francisco*, 74 F. Supp. 3d 1144 (N.D. Cal. 2014).

Also, R.L.U.I.P.A. only applies to land use regulation. See 42 U.S.C.A. § 2000cc-5. If it is not a land use regulation, then R.L.U.I.P.A. does not apply. *Olsen v. Mukasey*, 541 F.3d 827 (8th Cir. 2008), cert. denied, 129 S. Ct. 2178 (2009); *Faith Temple Church v. Town of Brighton*, 405 F. Supp. 2d 250 (W.D. N.Y. 2005); *St. Paul's Found. v. Baldacci*, 540 F. Supp. 3d 147 (D. Mass. 2021), aff'd sub nom. *St. Paul's Found. v. Ives*, 29 F.4th 32 (1st Cir. 2022). The City's restriction on limiting the presence of heavy trucks in residential neighborhoods, like its ordinances regarding health, sanitation, and property maintenance, are not subject to R.L.U.I.P.A.

### **Other Food Ministries**

The City would call your attention to the South Phoenix Missionary Baptist Church at 2006 East Broadway, Phoenix, Arizona. It operates a food bank and food kitchen in conformance to the regulations of the City of Phoenix and Health Department of Maricopa County. Storage of goods is within a building, and they use smaller trucks for transportation. If Gethsemani were to operate in such a manner, the City would welcome such a development.

### **Conclusion**

Since R.L.U.I.P.A. does not apply to the restriction on trucking, the activity of distribution of food from 1010 B Street appears to be relatively recent; the church never applied for the required use permit for food distribution at that location, and the church for most of

Eric W. Stanley  
Re: Gethsemani Baptist Church / Gethsemani Food Ministry  
November 7, 2023  
Page 5

its existence appears to have separated the activity of food distribution from the activity of religious services at 1010 B Street; it is respectfully submitted that there is no legal basis for a withdrawal of the letter of September 29, 2023. As a result, the City would encourage your client to conform to legal requirements.

Sincerely,

A handwritten signature in blue ink that reads "Kay Marion Macuil". The signature is written in a cursive style with a large initial 'K' and a long, sweeping underline.

Kay Marion Macuil  
San Luis City Attorney

# EXHIBIT G



## PROVIDENT LAW

**PROVIDENT LAW®**  
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**Erik W. Stanley, Esq.**  
Partner  
[erik@providentlawyers.com](mailto:erik@providentlawyers.com)

November 13, 2023

**Via Email Only to:**

City of San Luis, Arizona  
City Attorney Kay Macuil  
[kmacuil@sanluisaz.gov](mailto:kmacuil@sanluisaz.gov)

Re: *Gethsemani Baptist Church / Gethsemani Food Ministry*

Dear Ms. Macuil:

This letter is in response to your letter of November 7 and an email from Assistant City Attorney Glenn Gimbut dated November 8. There appears to be confusion on the part of the City regarding the Church's ministry activities at its Property at 1010 B Street and especially regarding the Gethsemani Food Ministry. Additionally, there appears to be confusion regarding the Church's demand in its letter dated November 2. The purpose of this letter is to clear up any confusion and to reiterate the demand made by the Church in its November 2 letter.

### **Factual Information and Background**

**The food distribution ministry is not "commercial food storage, preparation, or distribution."**

Your letter frequently refers to the church's food distribution ministry as "commercial food storage, preparation, or distribution." However, the Church's food ministry is not a commercial activity. The definition of the term "commercial" means "related to making money or buying and selling things."<sup>1</sup> As a non-profit organization, the Church does not engage in commercial activity.

The scale of the activity cannot determine whether something is commercial either. For example, the nonprofit organization *Feed My Starving Children* distributes tons of food per year and in one year, packs and distributes approximately 400 million meals. Last year, St. Mary's Food Bank, another nonprofit organization, distributed over 102 million pounds of food. These are simply examples to illustrate that even large-scale food distribution does not constitute commercial activity.

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<sup>1</sup> (<https://dictionary.cambridge.org/us/dictionary/english/commercial>).

City of San Luis, Arizona  
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Page 2

Further, and most importantly, classifying the Church's ministry activities as commercial ignores the religious purpose behind the ministry which I clearly stated in my letter of November 2. Moreover, it ignores the precedent that food distribution is a form of religious exercise. *See, e.g., Harbor Missionary Church Corp. v. City of San Buenaventura*, 642 F. App'x 726, 727-29 (9th Cir. 2016) (finding that the church's homeless ministry, which included offering food, was "an integral part of its religious exercise"); *see also W. Presbyterian Church v. Bd. of Zoning Adjustment of D.C.*, 862 F. Supp. 538, 544 (D.D.C. 1994) (stating that the "concept of acts of charity as an essential part of religious worship is a central tenet of all major religions," including by providing "clothing for the naked, food for the hungry, and benevolence to the needy"). Activities that are an integral part of the religious exercise of a church are, by nature, not commercial.

And to leave no doubt, contrary to your assertion, the Church does not sell any food to stores for commercial distribution. I am unaware of what information the City has received to lead you to assert that, but I assure you, that information is flatly wrong.

#### **The use of semi-trucks by the Church**

Your letter also takes issue with the use of a tractor trailer for the Church's food ministry. However, the Church has been using the semi-trucks for its food distribution ministry for over twenty years, since 2002. The City is well aware of this fact since the semi-truck has been distributing food since that time. Moreover, throughout the years, the Church's semi-trucks would participate in the City's parades/ Founders Day parades. Also, from time to time the semi-trucks would be escorted by the City Police to park at the public park and distribute boxes of vegetables and produce. The City has been well aware of the Church's semi-trucks for years.

Importantly, for over twenty years the semi-trucks have been driving to the Church's property, parking in the lot in front of the Church building and doing so without complaint or response from the City.

Mr. Gimbut's email of November 8 attempts to classify the semi-trucks as commercial because a CDL license is required to operate the truck. The requirement of a CDL license does not magically turn religious exercise into a commercial activity. That would be like saying the use of a commercially sized HVAC unit for a church building makes the activities in the building commercial. This argument also is belied by the fact that nonprofit, non-commercial organizations use semi-trucks all the time, from food distribution to disaster relief, and for many other purposes. The use of a CDL license or the fact that a semi-truck is used does not turn religious exercise into a commercial activity.

#### **The food distribution ministry has always taken place at the Church's building on B Street**

The Food distribution has always taken place at 1010 B street since it began in 1999. In 2010 the church sought and was issued a license to operate a mobile kitchen. The address for the license was not the Church's address since the mobile kitchen was a mobile trailer and the Church would park it at different



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locations. The mobile kitchen helped give hundreds of breakfasts, burritos, and coffee throughout Main Street, and especially to the field workers coming from Mexico. The mobile food kitchen was not part of the food distribution ministry that has always taken place at the Church. It was a separate ministry of the Church feeding the needy. The facts are undeniable, though, that the food distribution ministry of the Church has always taken place from the Church's property.

### **Food storage**

Non-perishable food is stored at the Church location for no more than two weeks. This is food that is moving every day or on a weekly basis. In the past, the Church did store food for long periods of time because it had too much food. However, the Church has reduced the food stored at the Church to the bare minimum and is committed to only storing non-perishable food items for no more than two weeks. The Church has secured the assistance of a storage unit outside the City that is helping it to store overflow food that cannot be immediately distributed.

The Church has committed to no long-term food storage at its Church Property. And, the Church has a regular maintenance program for the property as well as regular pest treatment.

## **Legal Argument**

### **A. The City's prohibition on the food ministry violates RLUIPA, FERA, and the Constitution.**

The arguments in my earlier letter regarding RLUIPA, FERA, and the U.S Constitution relate to the application of the City's zoning code to the Church, not the attempted (and unlawful) regulation of the Church's semi-trucks. To be clear, the City has told the Church that it cannot operate its food distribution ministry from its Church property without a rezoning or a conditional use permit. This was first stated in Code Enforcement Officer Gomez's letter of September 29, and you reiterated this in your letter of November 7.

In essence, the City is requiring the Church to completely separate a vital and integral ministry of the Church and move it to a new location for no reason other than that the City wants to do something different than it has done for over twenty years. This plainly violates the statutes I referenced as well as the constitutional provisions upon which they rest.

Your citation to cases upholding the requirement of seeking a special use permit to locate a church in a residential neighborhood are inapposite given that the Church has been in its location since the 1980s and operating as a church that entire time. Those cases have nothing to do with the Church's challenge to the City's prohibition on its food ministry.

Your citation to cases holding that a mere financial burden does not violate RLUIPA fails to take into account the undeniable facts of this case. First, you are incorrect that the Church has distributed food in a location other than at the Church for thirty years. That is flatly wrong. As described above, the Church



City of San Luis, Arizona  
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has always distributed food from its Church property location on B Street. Your requirement that the Church separate its food distribution ministry and locate it elsewhere operates not as a mere financial inconvenience but as a complete prohibition on the ministry because the Church simply cannot afford a separate property. It is a small church of about 50-60 people and the City's requirement for the Church to buy a new piece of property and locate the food distribution ministry there will shut down the food distribution ministry permanently. Moreover, such a requirement flatly ignores the precedent cited in my earlier letter (and again above) that food distribution is an integral part of the Church's religious exercise. The City's requirement to locate the food distribution ministry elsewhere is akin to the City telling the Church that it can pray and sing at its property but the pastor must buy a new property to preach his sermon from every week. The City cannot require the Church to piecemeal its ministry in such a way.

Your argument that the City is not stopping the church or its members from assembling or engaging in their religious practices within the City entirely misses the point of RLUIPA, FERA, and the Constitution. The food distribution ministry is an integral part of the Church's religious activity. It is cold comfort to tell the Church that it can still pray and sing and hear a sermon but cannot exercise its religion through feeding the poor and hungry. And such a stance by the City is patently unlawful.

Your argument that RLUIPA does not protect commercial activity is belied by the facts of this matter. The Church's food distribution ministry is not commercial, never has been commercial, and never will be commercial. The food distribution, again, is an integral part of the Church's religious exercise. The City's attempt to slap a commercial label on religious exercise activities is a clear violation of RLUIPA, FERA, and the First Amendment to the United States Constitution.

**B. The City is estopped from changing its position regarding the food distribution ministry.**

Finally, the City is estopped from changing its position regarding the Church's zoning that it has held for over twenty years. The government will be estopped from enforcing a zoning code requirement when "(1) the party to be estopped commits acts inconsistent with a position it later adopts; (2) reliance by the other party; and (3) injury to the latter resulting from the former's repudiation of its prior conduct." *Lowe v. Pima Cnty.*, 217 Ariz. 642, 650, ¶ 33, 177 P.3d 1214, 1222 (App. 2008). Here, the City has allowed the Church, under its current zoning, to engage in a food distribution ministry. The scale of that ministry has not changed for many years and City officials regularly supported the food ministry and celebrated it. In fact, the City has contracted with the Church (including, most recently, a contract signed by Mayor Nieves) to distribute food on behalf of the City. The City now is taking an inconsistent position than the one it has taken toward the Church for over twenty years.

It is plain to see that the Church has relied on the City's earlier position and has continued its food ministry without interruption during that time. Shutting down the food ministry or causing it to be entirely relocated to a new property the Church does not own and does not have money to purchase is a clear injury to the Church.



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Put simply, through its actions over the last twenty plus years, the City has held out the welcome mat to the food distribution ministry. The City cannot simply jerk the welcome mat out from underneath the Church based simply on the County's desire to do something different.

Moreover, the City is prohibiting from arguing that that the Church must comply with a new zoning code which drastically and negatively impacts the Church. *See Rotter v. Coconino County*, 169 Ariz. 269, 818 P.2d 704 (1991) (any ordinance that eliminates nonconforming uses solely by virtue of its enactment is generally held unconstitutional as a taking of property without due process of law); *see also Folsom Invs., Inc. v. City of Scottsdale*, 620 F. Supp. 1372 (D. Ariz. 1985) (holding that permits and plats which comply with existing zoning regulations may not be denied based on proposed new regulations).

**C. The City's prohibition on semi-trucks is based on a plain misreading of the City's regulations.**

The Church does not argue that the City's regulation of semi-trucks violates RLUIPA or FERA. Rather, the Church's argument is that nothing in the City's Code prohibits the use of semi-trucks the way the Church has been using the semi-trucks since 2002. The Church has been using its semi-trucks in the same way for over twenty years without any enforcement by the City. My letter made clear why this has been the case and that nothing in the City Codes prohibit the use of semi-trucks the way the Church uses them.

**D. Appeal to Board of Adjustment.**

Mr. Gimbut's email of November 8 expressed confusion regarding the statement in my letter about an appeal to the Board of Adjustment. To clarify once again, I am not seeking an appeal to the Board of Adjustment regarding the misapplication and enforcement of the City's regulations regarding the use of semi-trucks. That enforcement is just plainly wrong and should be immediately withdrawn on its own. Instead, my letter sought to request an appeal to the Board of Adjustment regarding the City's interpretation of its Zoning Code as it applies to the Church. This is the interpretation contained in the Notice of Zoning Violation letter dated September 29, 2023 from Code Enforcement Officer Gomez which was reiterated in the interpretation and application of the Zoning Code contained in your letter of November 7.

However, no appeal is warranted if the City interprets these actions as the final policy of the City from a final decisionmaker as it relates to the Church. Also, no appeal would be warranted if the City complies with the Church's demand to immediately remove these interpretations and enforcement of the City's Zoning Code against the Church. Please clarify the City's position on its interpretation and application of the Zoning Code.

**Demand**

The Church reiterates its earlier demand that the City immediately withdraw its enforcement actions against the Church and communicate that the Church may continue its food distribution ministry as part of its religious exercise. The Church stands ready to protect its statutory and constitutional rights through

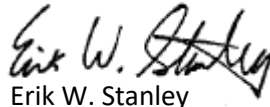


City of San Luis, Arizona  
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Page 6

the filing of a lawsuit against the City. However, the Church prays that a lawsuit will not be necessary, and that the City will respond favorably.

Because time is of the essence and the Church is being irreparably injured by the City's actions,<sup>2</sup> please respond to this letter **no later than Friday, November 17 2023.**

Very truly yours,  
**PROVIDENT LAW®**



Erik W. Stanley  
Partner

cc: Gethsemani Baptist Church (via email)  
Assistant City Attorney Glenn Gimbut ([GGimbut@sanluisaz.gov](mailto:GGimbut@sanluisaz.gov))

---

<sup>2</sup> "The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373 (1976). "RLUIPA enforces First Amendment freedoms," *Opulent Life Church v. City of Holly Springs*, 697 F.3d 279, 295 (5th Cir. 2012), and "[i]t is well established that the deprivation of constitutional rights unquestionably constitutes irreparable injury." *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012).



## EXHIBIT H

**GAMMAGE & BURNHAM, PLC**

ATTORNEYS AT LAW

40 NORTH CENTRAL AVENUE

20TH FLOOR

PHOENIX, ARIZONA 85004

TELEPHONE (602) 256-0566  
FACSIMILE (602) 256-4475

Cameron C. Artigue  
cartigue@gblaw.com

WRITER'S DIRECT LINE  
(602) 256-4418

December 7, 2023

Mr. Erik W. Stanley  
Provident Law  
[Erik@providentlawyers.com](mailto:Erik@providentlawyers.com)

Re: Gethsemani Baptist Church/ Food Ministry

Dear Mr. Stanley:

I am writing on behalf of our client, the City of San Luis ("City"), in response to your letter of November 13, 2023. I am hopeful that this letter will allow your client to conduct its activities in a way that complies with all provisions of the City's codes and ordinances.

The City Attorney related the City's understanding of the factual background in her letter dated November 7, 2023, and I will not repeat that. The City has a prescribed administrative process to address any uncertainty regarding application of the City's Zoning Ordinance, including appeals to the San Luis Board of Adjustment under § 18-10-030 of Title 18 Zoning in the City Code. While your letter of November 2, 2023 stated a desire to appeal to the Board of Adjustment, you did not respond to the request to identify the issues for which an appeal was sought. Your client is reminded that a conditional use permit is, and has always been, a requirement for both a church and food distribution. Moreover, the City is open to discussing these issues on an informal basis.

What is clear are the traffic and public health issues raised by your client's use and operation of semi-trucks to move and store food supplies. Your November 13 letter asserts that "nothing in the City's code prohibits the use of semi-trucks the way the church has been using the semi-trucks since 2002." To the contrary, based on recent observations, your client is routinely operating vehicles in a way that violates numerous provisions of the San Luis City Code and the laws of the State of Arizona.

Because streets exist to allow unrestricted transit for the general public, the creation of obstructions violates numerous provisions of the City Code. For example, it is unlawful "stop, stand, or park" any motor vehicle in any street in a way that leaves less than 20 feet of open street available for through traffic. City Code § 10-15-040(A). It is unlawful to stop, stand or park a vehicle on a public street under conditions that impede the "free movement of vehicular traffic."

December 7, 2023

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City Code § 10-15-225. It is unlawful to “park, stop or stand” a motor vehicle on public property in violation of regulations specified on any public traffic sign. City Code § 10-15-060. Specific categories of vehicles (*e.g.*, semitrailers and vehicles with a rated chassis capacity in excess of  $\frac{3}{4}$  ton) may not stand or park in a residential area except “during the process of loading or unloading.” City Code § 10-15-250. Common sense dictates that the “process of loading or unloading” means during an active process of loading or unloading—not storage. Moreover, just because trucks or other vehicles are being used in connection with religious activities does not affect the applicability of these code provisions. And parking a commercial vehicle on a private lot is also prohibited. City Code §10-15-255.A. Other violations of traffic and motor vehicle laws of both the State of Arizona and the City have been observed. Suffice it to say the City reserves the right to enforce all traffic violations.

In addition to the City’s authority to regulate the use of the streets, the City has authority to abate public nuisances under Chapter 8-25 of the City Code. While primary responsibility for enforcement of local health codes lies with Yuma County’s Environmental Health Services Division, the City also has authority to abate public nuisances, which are defined to include “obstructions . . .affecting the ordinary public use of streets,” as well as any condition that provides “harborage for flies [and] rodents.” City Code §§ 8.25.010(1) and (11). This includes the storage of food in any place or manner than attracts rodents.

The City recognizes that your client’s food distribution activities have worthy goals, but those activities must take place within the bounds of City codes and ordinances, particularly regarding traffic flow and prevention of nuisances. Proper permissions to engage in the activity of commercial level food distribution need to be obtained, and there is no legal right to engage in activity for which proper permission has not been obtained. A conditional use permit for food distribution is a requirement. See City Code §§18-25-040 (C)(2) and (5). Please be advised that the City will enforce all applicable codes and ordinances in order to ensure the health, safety, and welfare of the general public.

Very truly yours,

GAMMAGE & BURNHAM

By



Cameron C. Artigue

CCA/eg

# EXHIBIT I

COMPLAINT COPY

CITY OF SAN LUIS POLICE DEPARTMENT  
1030 E. Union St • PO Box 3720 • San Luis, AZ 85349 (928) 341-2420  
Arizona Traffic Ticket and Complaint



Complaint **113460** SSN **PII** Military  Accident  Fatality  Commercial  DR Number **2024-3503**  
 Serious Physical Injury  Haz. Material  
 Endorsements: M H N P T X D  
 State **AZ** Class: \_\_\_\_\_  
 Interpreter Required?  No  Spanish  Other language: \_\_\_\_\_  
 DEFENDANT First **Jose** Last **Manuel** City **San Luis** State **AZ** Zip **PII** Telephone  Cell Phone **PII**  
**PII** City **San Luis** State **AZ** Zip **PII**  
 Hair \_\_\_\_\_ Origin **PII** Tattoos \_\_\_\_\_ Telephone \_\_\_\_\_  
 Business Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

VEHICLE Color \_\_\_\_\_ Year \_\_\_\_\_ Make \_\_\_\_\_ Model \_\_\_\_\_ Style \_\_\_\_\_ License Plate \_\_\_\_\_ State \_\_\_\_\_ Expiration \_\_\_\_\_  
 Registered Owner \_\_\_\_\_ Address \_\_\_\_\_ Vehicle Identification Number \_\_\_\_\_

THE UNDERSIGNED CERTIFIES THAT:

ON **02** **22** **2024** Time **10:00**  AM  PM **SPEED** Approx \_\_\_\_\_ Posted \_\_\_\_\_ R&P \_\_\_\_\_  
 Yes  No RADAR  Yes  No Speed Measurement Device \_\_\_\_\_ Direction of Travel \_\_\_\_\_  
 AT **1010 E. B St.** Location \_\_\_\_\_ City of San Luis, Yuma County, State of Arizona Area \_\_\_\_\_ District \_\_\_\_\_

the defendant committed the following

<b>A</b>	Section <b>18.05.110(A)</b> Docket Number _____	ARS <b>CC</b> Violation <b>Use of property at 1010 B St not permitted in R-6 zone.</b>	Disp. Codes _____	Date of Disposition _____	Sanction _____	<input type="checkbox"/> Domestic Violence	<input type="checkbox"/> Criminal <input type="checkbox"/> Victim <input checked="" type="checkbox"/> City Code <input type="checkbox"/> Civil Traffic	<input type="checkbox"/> Criminal Traffic <input type="checkbox"/> Victim Notified <input type="checkbox"/> Petty Offense <input checked="" type="checkbox"/> Civil Non-Traffic
<b>B</b>	Section <b>15.10.990(A)</b> Docket Number _____	ARS <b>CC</b> Violation <b>Construction of enclosing wall at 1010 E B St. without a building permit.</b>	Disp. Codes _____	Date of Disposition _____	Sanction _____	<input type="checkbox"/> Domestic Violence	<input type="checkbox"/> Criminal <input type="checkbox"/> Victim <input checked="" type="checkbox"/> City Code <input type="checkbox"/> Civil Traffic	<input type="checkbox"/> Criminal Traffic <input type="checkbox"/> Victim Notified <input type="checkbox"/> Petty Offense <input checked="" type="checkbox"/> Civil Non-Traffic
<b>C</b>	Section <b>15.10.990(A)</b> Docket Number _____	ARS <b>CC</b> Violation <b>Construction of shade structure at 1010 E B St. without a building permit.</b>	Disp. Codes _____	Date of Disposition _____	Sanction _____	<input type="checkbox"/> Domestic Violence	<input type="checkbox"/> Criminal <input type="checkbox"/> Victim <input checked="" type="checkbox"/> City Code <input type="checkbox"/> Civil Traffic	<input type="checkbox"/> Criminal Traffic <input type="checkbox"/> Victim Notified <input type="checkbox"/> Petty Offense <input checked="" type="checkbox"/> Civil Non-Traffic
<b>D</b>	Section <b>15.10.990(A)</b> Docket Number _____	ARS <b>CC</b> Violation <b>Installation of walk in cooler at 1010 E B St. without a building permit.</b>	Disp. Codes _____	Date of Disposition _____	Sanction _____	<input type="checkbox"/> Domestic Violence	<input type="checkbox"/> Criminal <input type="checkbox"/> Victim <input checked="" type="checkbox"/> City Code <input type="checkbox"/> Civil Traffic	<input type="checkbox"/> Criminal Traffic <input type="checkbox"/> Victim Notified <input type="checkbox"/> Petty Offense <input checked="" type="checkbox"/> Civil Non-Traffic
<b>E</b>	Section _____ Docket Number _____	ARS <b>CC</b> Violation _____	Disp. Codes _____	Date of Disposition _____	Sanction _____	<input type="checkbox"/> Domestic Violence	<input type="checkbox"/> Criminal <input type="checkbox"/> Victim <input type="checkbox"/> City Code <input type="checkbox"/> Civil Traffic	<input type="checkbox"/> Criminal Traffic <input type="checkbox"/> Victim Notified <input type="checkbox"/> Petty Offense <input type="checkbox"/> Civil Non-Traffic

**YOU MUST APPEAR AT**  San Luis Municipal Court 767 N William Brooks Ave/PO Box 1670 San Luis, AZ 85349 (928) 341-8595 Court #:1447  
 South County Justice Court #2 1358 E Liberty Street San Luis, AZ 85349 (928) 314-5100 Court #:1402  
 Yuma Co. Juvenile Justice Center 2448 W. 28th St, Yuma, AZ 85364 (928) 314-1900 Court #:1400 PARENT MUST ATTEND  
 Other: \_\_\_\_\_

At the date and time indicated **03** **21** **2024** Time **9:30**  AM  PM

Criminal  Without admitting guilt, I promise to appear as directed hereon.  
 Civil  Without admitting responsibility, I acknowledge receipt of this complaint.  
 I certify upon reasonable grounds I believe the defendant committed the above violations and I have served a copy of this complaint upon the defendant.  
 Refused to sign/citation given. Officer **A. Gomez** Badge Number **854**

Print Fingerprint:  Yes  No

## EXHIBIT J



**CITY OF SAN LUIS POLICE DEPARTMENT**  
 1030 E. Union St • PO Box 3720 • San Luis, AZ 85349 (928) 341-2420  
**Arizona Traffic Ticket and Complaint**

**COMPLAINT COPY**

Complaint <b>113461</b>	SSN [REDACTED]	Military	<input type="checkbox"/> Accident <input type="checkbox"/> Fatality <input type="checkbox"/> Serious Physical Injury	<input type="checkbox"/> Commercial <input type="checkbox"/> Haz. Material	DR Number <b>2024-4055</b>
----------------------------	-------------------	----------	---	---	-------------------------------

Interpreter Required? <input type="checkbox"/> No <input type="checkbox"/> Spanish <input type="checkbox"/> Other language	Driver's License Number [REDACTED]	State [REDACTED]	Class	Endorsements M H N P T X D	Restrictions
---	---------------------------------------	---------------------	-------	-------------------------------	--------------

**DEFENDANT** First **Jose** Middle **Manuel** Last **Castro**

Residential Address [REDACTED] City [REDACTED] State [REDACTED] Zip [REDACTED] Telephone [REDACTED]  Cell Phone

Mailing Address  Same as Above [REDACTED] City [REDACTED] State [REDACTED] Zip [REDACTED] Email Address [REDACTED]

Sex [REDACTED] Weight [REDACTED] Height [REDACTED] Eyes [REDACTED] Hair [REDACTED] Origin [REDACTED] Date of Birth [REDACTED] Tattoos [REDACTED]

Business Address [REDACTED] City [REDACTED] State [REDACTED] Zip [REDACTED] Telephone [REDACTED]

**VEHICLE** Color [REDACTED] Year [REDACTED] Make [REDACTED] Model [REDACTED] Style [REDACTED] License Plate [REDACTED] State [REDACTED] Expiration [REDACTED]

Registered Owner [REDACTED] Address [REDACTED] Vehicle Identification Number [REDACTED]

**THE UNDERSIGNED CERTIFIES THAT:**

ON **02 29 2024 12:50** AM  PM **SPEED** Approx [REDACTED] Posted [REDACTED] R&P [REDACTED] RADAR  Yes  No Speed Measurement Device [REDACTED] Direction of Travel [REDACTED]

AT **1010 E. B St.** Location City of San Luis Yuma County State of Arizona Area [REDACTED] District [REDACTED]

the defendant committed the following

<b>A</b>	Section <b>18.05.110(A)</b>	ARS <b>CC</b>	Violation <b>Use of property at 1010 E. B St not permitted in R-1-G zone</b>	<input type="checkbox"/> Domestic Violence	<input type="checkbox"/> Criminal <input type="checkbox"/> Victim <input checked="" type="checkbox"/> City Code <input type="checkbox"/> Civil Traffic	<input type="checkbox"/> Criminal Traffic <input type="checkbox"/> Victim Notified <input type="checkbox"/> Petty Offense <input checked="" type="checkbox"/> Civil Non-Traffic
<b>B</b>	Section <b>15.10.990(A)</b>	ARS <b>CC</b>	Violation <b>Construction of enclosing wall at 1010 E. B St. without a building permit.</b>	<input type="checkbox"/> Domestic Violence	<input type="checkbox"/> Criminal <input type="checkbox"/> Victim <input checked="" type="checkbox"/> City Code <input type="checkbox"/> Civil Traffic	<input type="checkbox"/> Criminal Traffic <input type="checkbox"/> Victim Notified <input type="checkbox"/> Petty Offense <input checked="" type="checkbox"/> Civil Non-Traffic
<b>C</b>	Section <b>15.10.990(A)</b>	ARS <b>CC</b>	Violation <b>Construction of shade structure at 1010 E. B St. without a building permit.</b>	<input type="checkbox"/> Domestic Violence	<input type="checkbox"/> Criminal <input type="checkbox"/> Victim <input checked="" type="checkbox"/> City Code <input type="checkbox"/> Civil Traffic	<input type="checkbox"/> Criminal Traffic <input type="checkbox"/> Victim Notified <input type="checkbox"/> Petty Offense <input checked="" type="checkbox"/> Civil Non-Traffic
<b>D</b>	Section <b>15.10.990(A)</b>	ARS <b>CC</b>	Violation <b>Installation of walk-in cooler at 1010 E. B St. without a building permit.</b>	<input type="checkbox"/> Domestic Violence	<input type="checkbox"/> Criminal <input type="checkbox"/> Victim <input checked="" type="checkbox"/> City Code <input type="checkbox"/> Civil Traffic	<input type="checkbox"/> Criminal Traffic <input type="checkbox"/> Victim Notified <input type="checkbox"/> Petty Offense <input checked="" type="checkbox"/> Civil Non-Traffic
<b>E</b>	Section	ARS <b>CC</b>	Violation	<input type="checkbox"/> Domestic Violence	<input checked="" type="checkbox"/> City Code <input type="checkbox"/> Civil Traffic	<input type="checkbox"/> Criminal Traffic <input type="checkbox"/> Victim Notified <input type="checkbox"/> Petty Offense <input checked="" type="checkbox"/> Civil Non-Traffic

**YOU MUST APPEAR AT** →

<input checked="" type="checkbox"/> <b>San Luis Municipal Court</b> 767 N William Brooks Ave/PO Box 1670 San Luis, AZ 85349 (928) 341-8595 Court #:1447	<input type="checkbox"/> <b>South County Justice Court #2</b> 1358 E Liberty Street San Luis, AZ 85349 (928) 314-5100 Court #:1402	<input type="checkbox"/> <b>Yuma Co. Juvenile Justice Center</b> 2440 W. 28th St, Yuma, AZ 85364 (928) 314-1900 Court #:1400	<input type="checkbox"/> <b>Other:</b>
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**PARENT MUST ATTEND**

At the date and time indicated → Month **03** Day **21** Year **2024** Time **9:30**  AM  PM

Criminal  Without admitting guilt, I promise to appear as directed hereon.  
Civil  Without admitting responsibility, I acknowledge receipt of this complaint.

**X Refused to sign. Citation given.**

I certify upon reasonable grounds I believe the defendant committed the above violations and I have served a copy of this complaint upon the defendant.

Officer **A. Gomez** Badge Number **854**

Ten-Print Fingerprint:  Yes  No

**Civil Cover Sheet**

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the District of Arizona.

**The completed cover sheet must be printed directly to PDF and filed as an attachment to the Complaint or Notice of Removal.**

**Plaintiff(s): Gethsemani Baptist Church , ;**

**City of San Luis , ; City of San Luis City Council, Nieves G. Riedel , Mayor; City of San Luis City Defendant(s): Administration, Jenny Torres , Acting City Manager; City of San Luis Building Safety, Alexis Gomez Cordova , Code Enforcement Officer;**

County of Residence: Yuma

County of Residence: Yuma

County Where Claim For Relief Arose: Yuma

Plaintiff's Atty(s):

Defendant's Atty(s):

**Ryan J. Regula ,**  
Snell & Wilmer LLP  
One East Washington St, Suite 2700  
Phoenix, Arizona 85004  
6023826000

**Charlene A. Warner ,**  
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**Jeremiah G. Dys ,**  
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**Camille P. Varone ,**  
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Washington, District of Columbia 20004  
2029214105

**Steven D. Keist ,**  
Keist Thurston O'Brien  
10150 W. Desert River Blvd.  
Glendale, Arizona 85037  
6239378888

**IFP REQUESTED**

**REMOVAL FROM COUNTY, CASE #**

II. Basis of **3. Federal Question (U.S. not a party)**  
Jurisdiction:

Plaintiff:- N/A

Defendant:- N/A

IV. Origin : **1. Original Proceeding**

V. Nature of  
Suit: **440 Other Civil Rights**

VI.Cause of  
Action: **This is a civil rights action under the United States Constitution, the Civil Rights Act of 1871, 42 U.S.C. § 1983, and the Religious Land Use and Institutionalized Persons Act ("RLUIPA"), 42 U.S.C. § 2000cc et seq., and state-law questions under the Arizona Free Exercise of Religion Act ("FERA"), A.R.S. §§ 41-1493 et seq. Defendants are prohibiting Gethsemani Baptist Church from operating its Food Ministry, thus burdening Plaintiff's religious exercise and constitutional and statutory rights.**

VII. Requested in  
Complaint

Class Action: **No**

Dollar Demand: **Declaratory Relief, Injunctive Relief, and Nominal Damages**

Jury Demand: **Yes**

VIII. This case is not related to another case.

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**Signature:** Ryan J. Regula

**Date:** 3/13/2024

If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button in your browser and change it. Once correct, save this form as a PDF and include it as an attachment to your case opening documents.