No. 25-965

IN THE

Supreme Court of the United States

DANIEL GRAND,

Petitioner,

v.

CITY OF UNIVERSITY HEIGHTS, OHIO, ET AL.,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

JOINT APPENDIX

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PETITION FOR A WRIT OF CERTIORARI FILED FEBRUARY 11, 2026
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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

DANIEL GRAND, *Plaintiff,* v. CITY OF UNIVERSITY HEIGHTS, OHIO, *Defendant,* and MICHAEL DYLAN, BRENNAN In his official and individual capacity *Defendant,* and LUKE MCCONVILLE In his individual capacity Defendant, And PAUL SIEMBORSKI	Civil Case No. 1:22-cv-1594 SECOND AMENDED COMPLAINT

In his individual capacity	)
	)
Defendant	)

Plaintiff DANIEL GRAND, by and through his attorney, Jonathan Gross, respectfully alleges as follows:

INTRODUCTION AND NATURE OF THE ACTION

1. Plaintiff Daniel Grand files this action to redress violations of his civil rights caused by the City of University Heights, Ohio; the Mayor Michael Dylan Brennan; the City Law Director Luke McConville; the City Planning Commission members Paul Siemborski, Michael Fine, and April Urban; the City Prosecutor Stephanie Scalise; the City Housing Director Geoff Englebrecht; and City residents Christopher Cooney and Jack Kluznik.

2. The City's Orthodox Jewish community is currently clustered on the eastern most border of the City and has grown significantly in the last few years. By January of 2021, the number of Orthodox Jewish residents had become far greater than the total number of legally allowable seats in all of the City's Orthodox Jewish synagogues.

3. Orthodox Jewish families have begun moving westward, further away from the eastern border where the Orthodox Jewish synagogues are located.

In 2019, Grand purchased a home on 2434 Miramar Blvd., in the western part of the City, approximately a mile's distance from the eastern border.

4. Responding to this pressing need for places to pray, in January of 2021, Grand invited 15 of his friends over to pray in the privacy of his residential home in University Heights.

5. Grand had no intention of converting his home into a synagogue. He simply sought to satisfy the religious obligations of an Orthodox Jew by praying in his home with a "minyan," which is a group of at least 10 Jewish males aged 13 and above. For Orthodox Jewish males, daily prayer with a minyan is a sincerely held religious obligation. To pray in his home, Grand requires a minyan.

6. A synagogue and a home are two completely different things. A synagogue is not a home, and a home is not a synagogue. A minyan in a home does not turn it into a synagogue.

7. When the Defendants learned of Grand's plan to pray in his home, they conspired to prevent him from doing so, ginning up animosity among his neighbors, using the municipal powers of the City, and even threatening criminal prosecution.

8. The plan to prevent Grand from praying included intentionally misinterpreting the City's zoning code and notifying Grand that he could not pray in his home without first obtaining a special use permit. The ultimate plan was to prevent any and all Orthodox Jews from moving westward. The

conspirators against Grand were aware that if the Orthodox Jews would have nowhere to pray in the west, they would not be able to move further west.

9. Defendants Brennan and McConville and the City further threatened Grand that they would review and possibly revoke permits and variances that the City had granted in the past.

10. Those Defendants made it clear that Grand had no choice but to apply for a special use permit to pray in his home, but the Defendants had no intention of granting him the permit.

11. Grand's application was subjected to a hearing format that followed brand new procedures that no other permit applicant in the City had ever before been subjected to prior, including treating his application as a quasi-judicial proceeding, pursuant to Ohio Revised Code 2506.

12. As part of the plan, Defendants conspired to gin up opposition to Grand and his application by deliberately misleading residents by telling them that Grand applied to build a synagogue in place of his house, which is false.

13. Additionally, they tapped into the neighborhood's existing Judeophobic concern that if Grand were permitted to pray in his home, Orthodox Jews will follow his lead and continue to move west until the neighborhood gets "labeled a Jewish neighborhood."

14. The mayor has stated both privately to Grand and publicly at official meetings that praying in a residential home, as Grand wished to do, is forbidden by the University Heights Codified Ordinances (the "UHCO") without first obtaining a Special Use Permit. Accordingly, for over two years, Grand has been prevented from exercising his fundamental First Amendment right to free exercise of his religion.

15. Since Grand moved into his home in 2019, he has experienced discrimination based on his religion. After Grand's invitation for friends to join him in Orthodox Jewish prayer in January of 2021, the City, led by its mayor, waged a zealous campaign of capricious enforcement of its local ordinances specifically targeting Grand and several other Orthodox Jews. This campaign is part of a larger conspiracy that is directly responsive to a hostile segment of the mayor's constituency that seeks to prevent the growth of the City's Orthodox Jewish population by limiting the locations where Orthodox Jews can pray.

16. Additionally, the City has targeted Grand individually through the intentional, arbitrary, and discriminatory application of its ordinances that have caused him substantial injuries.

17. This action also challenges certain provisions of the UHCO that violate the United States Constitution, the Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C. § 2000cc, *et seq*. ("RLUIPA"), the Ohio Constitution, and Ohio common law.

18. This action also challenges the discriminatory application of its laws against Grand and seeks compensation for the resulting damages and attorney's fees.

JURISDICTION AND VENUE

19. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1343(3), (4), 42 U.S.C. § 2000cc, et seq., 18 U.S.C. § 248, and 42 U.S.C. § 1983, which confer original jurisdiction on federal district courts in suits to redress the deprivation of rights, privileges and immunities secured by the laws and Constitution of the United States. This Court has supplemental jurisdiction over all state law claims under 28 U.S.C. § 1367(a).

20. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), because the acts and transactions complained of occurred, and continue to occur, in this District.

PARTIES

21. Plaintiff DANIEL GRAND (hereinafter "Grand" or "Plaintiff") is and was an adult citizen of the State of Ohio, and at all times relevant to this action resided at 2343 Miramar Blvd., University Heights, Ohio, 44118 (hereinafter the "Property").

22. Defendant CITY OF UNIVERSITY HEIGHTS, OHIO (hereinafter the "City") is a chartered municipal corporation in Cuyahoga

County, Ohio having offices at 2300 Warrensville Center Road, University Heights, Ohio 44118.

23. Defendant MICHAEL DYLAN BRENNAN, Esq. (hereinafter "Brennan" or the "Mayor") is an adult citizen of the State of Ohio and at all relevant times to this action was the Mayor of the City.

24. Defendant LUKE MCCONVILLE, Esq. (hereinafter "McConville" or the "Law Director") is an adult citizen of Ohio.

25. Defendant PAUL SIEMBORSKI, R.A. is an adult citizen of Ohio.

26. Defendant APRIL URBAN is an adult citizen of Ohio.

27. Defendant MICHAEL FINE, Esq. is an adult citizen of Ohio.

28. Defendant STEPHANIE SCALISE, Esq. (hereinafter "Scalise" or the "Prosecutor") is an adult citizen of Ohio.

29. Defendant GEOFF ENGLEBRECHT (hereinafter "Englebrecht" or the "Housing Director") is an adult citizen of Ohio.

30. Defendant CHRISTOPHER COONEY is an adult citizen of Ohio.

31. Defendant JACK KLUZNIK, Esq. is an adult citizen of Ohio.

FACTUAL ALLEGATIONS

The Defendants conspired to prevent Plaintiff from praying in his home.

32. Plaintiff lives at the Property with his wife and his four small children, ages 6, 5, 3, and 1.

33. Plaintiff is an Orthodox Jew and observes the laws of Orthodox Judaism, including thrice daily prayer and the observance of "Shabbos" and Jewish holidays which includes, at minimum, refraining from traveling by car every week from sunset Friday until stars emerge on Saturday night, the same driving restrictions exist on several Jewish holidays throughout the year as well.

34. According to his religious beliefs, Grand, as the man of the house, is required to pray with a minyan three times every weekday, and four times on Shabbos and holidays when driving is prohibited. Accordingly, to exercise his religion, Grand must live within walking distance of a Jewish Synagogue or else have a place to gather with at least ten Jewish men for prayer on Shabbos and holidays.

35. The closest Jewish Synagogue where Plaintiff can meet this requirement is three quarters of a mile away from the Property. As part of his religious beliefs, Plaintiff is required to pray with a minyan on Friday night, on Saturday morning, and on Saturday afternoon/evening, and in between services it is a religious duty to eat festive meals at home with his family. Accordingly, to attend services on Shabbos at a Synagogue requires four round trips; back and forth

Friday evening, back and forth Saturday morning, back and forth Saturday afternoon, and back and forth Saturday evening. Based on that requirement, on any given week Plaintiff must walk six miles, which is very difficult throughout the year, and especially difficult during the cold winters and hot summers.

36. On Wednesday, January 20, 2021, Plaintiff invited 15 friends to pray at his home on the upcoming Shabbos.

37. The invitation was sent by private email to 15 of Grand's Orthodox Jewish friends that live within walking distance.

38. Grand did not advertise the invitation to the general public.

39. Before Shabbos arrived, on Thursday, January 21, 2022, at 5:08 PM, Michael Dylan Brennan, the City Mayor, called Plaintiff's personal phone and left a voice message asking Plaintiff to call him back regarding an "urgent matter." Brennan left his official office number and his personal cell phone number.

40. That same day, at 5:22 PM, at the behest of the Mayor, Plaintiff received an email from Luke McConville, the City Law Director containing a cease-and-desist letter from the City regarding "2343 Miramar Blvd., University Heights, OH 44118, Planned Operation of Shul/Place of Religious Assembly."

41. Plaintiff was shocked to receive the call and the email. He did not know how the City ever became aware of the invitation he sent to several of his friends to come to his home to pray; further, Plaintiff had never actually had a minyan in his home.

42. Simply inviting a few friends over to pray resulted in the City, and its mayor, accusing him of starting/operating an illicit synagogue and threatening him with legal action.

43. Mayor Brennan learned about the private email from a resident who was not an invitee, who informed Brennan about Grand's private email on January 21, 2021, at 12:14 PM, asking Brennan to "put a stop to this."

44. Upon receiving the private email, without any investigation or communication with Grand, Brennan immediately involved the Law Director Luke McConville and set out to prevent Grand from praying in his home. The emails between Brennan and McConville were titled "mirimar synagogue," showing that they believed that praying in a residential home constitutes a "synagogue" that violates the City zoning code.

45. Plaintiff called Brennan back that day. On the phone, Brennan said to Plaintiff, "You are under no circumstances allowed to have any type of religious gathering in your home without first obtaining a special use permit under Chapter 1274 of the University Heights Code."

46. Plaintiff said, "I just invited people over to my house to pray, I am not trying to operate a synagogue, and I should not need a permit to do that." Plaintiff asked him rhetorically, "If there are ten Jews in a room, does that make it a synagogue?"

47. Brennan responded to Grand's rhetorical question and said, "Yes it does, and if you do so in your home you will be in violation of [UHCO] Chapter 1274 for operating an illegal synagogue."

48. Brennan went further and said, "if you go ahead and do what you just described, you will be in violation of the cease-and-desist order and the City will take all legal means available to it."

49. Plaintiff understood this as a threat of criminal prosecution if he were to invite ten friends over to his house to pray.

50. Brennan advised Plaintiff that the only way to legally have people pray in his home was to obtain a Special Use Permit from the City Planning Commission (the "PC").

51. A few days later, Plaintiff also received in the mail the same cease-and-desist letter from the City dated January 21, 2021.

52. The cease-and-desist letter stated that Plaintiff could not use the Property as a place of religious assembly without obtaining a Special Use Permit, and that:

> to the extent that the Premises are currently being used for said purposes or are intended to be used for such purposes in the immediate or near future, the City hereby demands that you immediately cease and desist any and all such operations. Violations of the City's ordinances in this manner may result in building code citations against you and in the pursuit of additional remedies.

53. The letter also stated:

> The City is particularly disturbed to learn of the proposed use of the Premises as a place of religious assembly given that you recently appeared before the City's Board of Zoning Appeals in connection with your application for variances. The City is exploring whether variances granted for the Premises may be voidable based upon a subsequent illegal use of the Premises, or due to material omissions during the hearing process relating to your intent to utilize the Premises as a place of religious assembly.

54. Plaintiff understood this as the City threatening to use its municipal authority to revoke variances already approved if Plaintiff would pray with a minyan in his home.

55. Upon information and belief, this was an unprecedented action by the City; countless residents have invited ten or more people to their residential

homes and the City has never before sent a cease-and-desist letter before the meeting took place, if at all.

56. As is set forth below in greater detail, the City and Brennan's actions were motivated by animus towards Orthodox Jews in general, and animus towards Daniel Grand specifically.

57. Plaintiff took the City's threat very seriously, and the very next day, Friday, January 22, 2021, he emailed the City clerk:

> Apparently, unbeknownst to me, I will need to file for a special use permit with the City Planning Commission to have friends come over to pray at my house. I am totally willing to comply (as usual) - I need to fill out an application today and submit it back to you today so I can be inside the 14 day window of the next upcoming meeting - God willing I will be able to make it in - I have my checks ready, one for $100 and one for $300 - I have the paperwork I need to submit, the drawings and a picture, and all I need is the application which I will fill out like greased lightning and get it right back to you.

58. At the time, Grand was unfamiliar with UHCO Section 1274, which regulates permits for synagogues. He believed that Brennan and McConville as high-ranking government officials and attorneys were acting in good faith and were guiding Grand towards accomplishing his goal to pray in his home. He submitted his application and paid the $400

fee in good faith, believing his application would be summarily granted, because, after all, he was instructed to apply by the Mayor and the Law Director. Even so, he considered the $400 fee, the application, and the hearing to be burdensome, and even wondered why it was necessary and how it could be constitutional.

59. Because of this burden imposed by the City, the Mayor, and the Law Director, Grand was forced to cancel his invitation and was not able to pray in his home as planned on Shabbos, January 23, 2021, or thereafter.

60. Plaintiff's application to "have friends over to pray at [his] house" was submitted to the PC and a hearing was scheduled for March 4, 2021.

61. The hearing on March 4, 2021, was held virtually and is available for viewing on the City's YouTube channel[1] and is incorporated as if set forth fully herein. Over 100 people attended the hearing on March 4. This itself was atypical; hearings of this kind are usually attended by only the applicants and those few residents directly impacted by the application.

62. Normal practice is for the City to mail out a letter giving notice of the upcoming hearing to

[1] City of University Heights, Planning Commission Meeting, March 4, 2021, www.youtube.com/watch?v=D5kP12aBUUY (last visited, April 20, 2023).

adjoining homes, but in this case many more people were notified.

63. Prior to the hearing, Brennan coordinated with the opposition and created and circulated a map which highlighted all the houses of City residents that he knew opposed Plaintiff's application in pink, and also singled out Grand's home in blue.

64. Grand was not provided with this map prior to the hearing.

65. The map was circulated among the PC members prior to the hearing but was not mentioned on the record at the hearing.

66. Defendants Christopher Cooney and Jack Kluznik were the acknowledged leaders of the residents' opposition to Grand's application.

67. Upon information and belief, Cooney and Kluznik were in contact with members of the PC and the Law Director about the hearing prior to the hearing.

68. Cooney's wife was sent by Cooney door-to-door to collect signatures for a petition in opposition of Grand's application, and to deliberately misinform the neighbors that Grand was applying to build a synagogue in place of his house, to gin up animosity and hostility, and to encourage wide attendance at the hearing.

69. Upon information and belief, Brennan arranged for residents who he knew opposed

Plaintiff's application to be notified of the hearing, though they would not have been notified under ordinary circumstances.

70. Upon information and belief, Brennan arranged that certain residents who lived near Grand and who Brennan thought would be supportive of Grand's application did not receive notification for the hearing.

71. The hearing began with Plaintiff's counsel presenting Plaintiff's proposal to pray in his home on Shabbos and Jewish holidays when driving is prohibited.

72. For over an hour, several angry residents vehemently expressed their opposition to the application.

73. Defendants Cooney and Kluznik, two City residents, attended the hearing and spoke in opposition.

74. Many residents in opposition stated that Defendant Cooney spoke for them.

75. The PC noted on the record that it received a petition in opposition to the application with 195 signatures, but Plaintiff was prevented by Brennan from mentioning a petition with over 200 signatures in support of his application that he had submitted to the PC at the hearing.

76. Specifically, Grand tried to introduce the petition several times and was prevented by the Law

Director. At one point, Defendant Cooney, who was not a member of the Planning Commission, was permitted by Brennan and McConville to take control of the hearing while Grand was speaking and directed Brennan not to allow Grand to speak, and Brennan complied with Defendant Cooney's direction.

77. The PC is composed of 5 members, including Brennan who chairs the PC. Brennan and PC member Siemborski expressed that they were in favor of skipping deliberation altogether and summarily denying the application.

78. PC member Michael Fine stated that "the whole format that we are going through tonight is different than what we have used before, and I have been on the Planning Commission for a number of years, and I don't understand why the format is so dramatically different." He also stated that the process that Plaintiff was subjected to lent itself to a "hostile confrontational approach."

79. Similarly, Siemborski wrote an email the next morning including the entire Planning Commission, Brennan, and the Law Director. "I felt we handled the meeting last night poorly. Never had we allowed such a format. And I was appalled at the Grand standing and showmanship we allowed between the applicant and his attorney. I am just an Architect. That we turned this into a court proceeding was wrong in my opinion."

80. What Siemborski and Fine were referring to was Brennan and McConville's decision to conduct

the meeting in a quasi-judicial format, pursuant to Ohio Revised Code 2506.

81. No other applicant had ever been subjected to a quasi-judicial format prior to Grand.

82. Grand was not informed in advance that his application would be the first application ever in the history of University Heights SUP hearings to be conducted as a quasi-judicial proceeding, and accordingly had no way to prepare properly for the hearing.

83. The strange format was part of the Defendants' plan to deny Grand his application to pray in his home, and preemptively cut off any potential avenue for Grand to appeal.

84. PC member Siemborski insisted that he had to leave the meeting at 10:15 pm and urged the committee to deny the application without any deliberation.

85. Immediately after the meeting, Siemborski contacted McConville and told him that the hearing was a waste of time, and that Grand should not have been granted a hearing at all. In his opinion, when Grand submitted his application, he should have simply been told up front, "this is not allowed on Miramar."

86. The PC voted 3-2 to table the application, with Brennan and Siemborski voting against.

87. The hearing ended with shouting and yelling from the angry and hostile audience of residents that had hoped to see Plaintiff's application denied.

88. The hearing was scheduled to continue on March 23, 2021.[2]

89. Outside of and in between the public hearings, the members of the Planning Commission, the Law Director, and the Mayor, illegally communicated amongst themselves about the tabled application.

90. For instance, On March 10, 2021, PC member Paul Siemborski, sent the following email to Law Director Luke McConville: "Luke, these are my scribbles from your call to me yesterday of the 4 variances the applicant would still need (should the planning commission be dumb enough to allow such use on Miramar). I think it would be great if you could have someone type these up in lay person terms and distribute as information along with the map I sent…. and this should go out in advance of any meeting. My 2 cents. Paul"

91. Both sender and recipient used non-government emails to communicate.

92. The email shows that Siemborski and McConville communicated ex parte of the quasi-

[2] City of University Heights, Special Planning Commission Meeting, March 23, 2021, www.youtube.com/watch?v=5Pl0YbrbZek (last viewed Sept.5, 2021).

judicial proceeding. It also shows that the law director and a PC member were working together to provide Grand's neighbors with materials in advance of the meeting to secretly assist the neighbors in articulating opposition to Grand's application.

93. Neither McConville nor Siemborski nor any other City official or volunteer contacted Grand to inform him of any variances that he would need for his application.

94. It has been stated by the City that it is customary for the City to work together with SUP applicants.

95. In Grand's case, as this *ex parte* email from McConville to Siemborski shows, the City compiled a list of variances not for the purpose of assisting the applicant, but for the purpose of undermining the application.

96. The "scribbles" referred to by Siemborski included intentionally inaccurate representations of provisions of the University Heights Codified Ordinances to distribute to lay people, including "all uses must have front on the streets Green [Road]."

97. In further preparation for the PC hearing, the entire PC deliberated privately in closed session by email to discuss Grand's application without calling for executive session and without notifying Grand or the public of the deliberations, in violation of the Ohio Open Meetings Act, Ohio Revised Code, Section 121.22.

98. For instance, before the initial PC hearing, PC member Michael Fine sent an email from a non-government email to the Mayor and the Law Director, and to the rest of the PC. The email was sent to the non-government emails of PC members Urban and Siemborski. The email stated that "In correspondence distributed in connection with the upcoming Planning meeting [to consider Grand's SUP application], there are allegations of numerous and significant violations and failures to act as agreed with the BZA in regard to variances granted."

99. Whatever allegations he was referring to were false, as Mr. Grand had not received a single property violation from the City. The first property violation ever issued to Grand was issued on Passover, a week after the March 23, 2021 PC hearing, after the Mayor directed the residents to "report" potential violations to the City, as set forth below.

100. Further, on March 12, 2021, before the March 23, 2021 PC hearing, Brennan published a letter regarding Grand's application.

101. The letter stated expressly, "To be clear, the administration does not endorse or support the application."

102. Brennan's letter went on to state that Brennan, as chair of the Planning Commission, introduced a new procedure for Grand's application so that Grand would be prevented from appealing to another body de novo.

103. Before Brennan published his letter to the general public, he sent it in an email to the entire City Council, all City department heads, and the City Law Director.

104. Not a single recipient objected to the substance of the Mayor's letter.

105. As set forth below, pursuant to the University Heights Codified Ordinances, even if Grand had received a recommendation from the Planning Commission for his application, the City council could deny his application for any reason.

106. Accordingly, Brennan, who was both chair of the Planning Commission and the Mayor of the City, had announced publicly that any further attempts to pursue the application would ultimately result in futility because the City Council would deny the application.

107. Further, Brennan's letter revealed that Brennan's intention was to deny Grand's application in a manner that would foreclose other avenues of appeal.

108. Kluznik and Cooney communicated with and coordinated with McConville prior to the March 23, 2021 hearing.

109. On March 11, 2021, Grand was notified of the March 23, 2021 hearing. On March 17, 2021, Brennan informed Grand that Grand would not be able to provide any further testimony or evidence at the upcoming hearing.

110. Plaintiff rightly understood that his application was doomed, so he withdrew his application prior to the March 23, 2021 hearing.

111. The PC held a public meeting on March 23, 2021. Brennan stated at the meeting:

> Let there be no confusion: Congregating at 2343 Miramar Blvd., or any other address located in a residence zoned U-1, without a special-use SUP is a violation of city law. I am hopeful that the wording of the withdrawal is not intended to suggest that congregating weekly at a residence to conduct activities consistent with those in a house of assembly does not require a special-use SUP. As recently as two months ago, the city brought suit against the organizers of another residential shul, one on Churchill Boulevard, and ultimately obtained a permanent injunction in court.
>
> To the community members who are here, let there be no question. There is no permission granted here to operate … a house of assembly or conduct activities consistent with one at 2343 Miramar Blvd. If you observe such activities – and I hope you do not – but if you do, you may report them to the city, and the city will enforce its laws which exist for the benefit of the entire community, and we will seek all appropriate remedies in court.

112. Though the mayor said that all congregating at residential homes requires a SUP, in practice, the City has only enforced this draconian and unconstitutional application against Orthodox Jews.

113. For example, students who attend the local college routinely hold gatherings at residential homes, as do many other affinity groups, and have never applied for, obtained, or been told by the City or the mayor that they need to obtain a SUP.

114. Upon information and belief, only Orthodox Jews have been prohibited by the City from praying in residential homes.

115. Upon information and belief, Brennan and Law Director McConville, who are attorneys, were aware that requiring a special use permit for gathering for prayer in a residential home is prohibited by the United States Constitution, the Ohio Constitution, and other federal laws, regardless of any interpretation of the local ordinances.

116. Plaintiff did not need a permit to pray in his home and he should not have been subjected to a hearing before the PC.

117. By forcing Plaintiff to submit an application and appear before the PC, Brennan needlessly provoked City residents by alerting them to Plaintiff's plans to pray in his home, thereby inciting residents against Plaintiff and causing Plaintiff shame, humiliation, as well as apprehension and fear of exercising his religion.

118. Because of the Defendants' actions, Plaintiff has never been allowed to pray in his home.

119. The cease-and-desist letter is still in effect to this day.

The Defendants' actions against Plaintiff were motivated by animus against Orthodox Jews.

120. The Defendants' actions to prevent Plaintiff from praying in his home is consistent with a systematic campaign to prevent the City's Orthodox Jewish community from expanding.

121. As set forth below, the City's zoning code, as written and as applied, has effectively limited the construction of Orthodox Jewish synagogues to one street, Green Road, on the extreme eastern border of the City.

122. As a result, the City's established Orthodox Jewish community is clustered on the extreme eastern side of the City, along Green Road, which some residents refer to as "the Green Road Ghetto."

123. The Property where Plaintiff lives is outside of the City's established Orthodox Jewish cluster; Plaintiff is one of only a handful of Orthodox Jews who live among mostly non- Jewish neighbors, many of whom attend GESU, a large Catholic church with a 700-student school, that is located on the very same street as Plaintiff's Property, less than 800 feet away.

124. GESU holds daily religious gatherings many times the size of that which Plaintiff sought to hold at his house on Shabbos and Jewish holidays.

125. There exists a segment of the City's constituency that seeks to prevent the Jewish community from spreading from the eastern border of the City westward towards the City's interior where the GESU community is located.

126. That which is happening in the City of University Heights is a common story that exists in several towns and cities throughout the United States with growing Orthodox Jewish communities, namely, a hostile population views a growing influx of Orthodox Jewish residents as an invasion of sorts, and new Orthodox Jewish prayer groups as beachheads for the invading army to advance and capture new territory.

127. The City's current attempt to use municipal powers to prevent Orthodox Jewish prayer is just the latest iteration of similar episodes that occurred in surrounding cities. Just over 20 years ago, in the neighboring city of Beachwood, Ohio, the residents fought a protracted legal battle to prevent Orthodox Jews from building synagogues. The saga was famously chronicled in the book, *Jew vs. Jew: The Struggle for the Soul of American Jewry,* by Pulitzer Prize finalist Samuel G. Freedman. In the 1950s, after the neighboring city of South Euclid denied a SUP to an Orthodox Jewish synagogue, the Ohio Court of Common Pleas held that "the action of the authorities has no foundation in reason and is a mere

arbitrary or irrational exercise of power having no substantial relation to the public health, the public morals, the public safety or the public welfare in its proper sense." *Young Israel Org. v. Dworkin*, 105 Ohio App. 89, 103, 133 N.E.2d 174, 182 (1956) (internal quotations and citations omitted).

128. Defendants' actions towards Plaintiff are directly in response to a hostile constituency that wants to prevent new Orthodox Jewish prayer anywhere in the heart of the neighborhood.

129. Upon information and belief, Brennan premeditated that his vote would be to deny Plaintiff's application for a permit before the PC hearing on March 4, 2021.

130. Upon information and belief, the purpose of the hearing was part of a greater plan to intimidate Plaintiff into canceling his plans to pray in his home, and, by delivering Plaintiff a formal denial, to ultimately establish a new precedent in the town, so others would be dissuaded from trying as well.

131. As a matter of fact, the plan has thus far been successful.

132. Nothing that Plaintiff could have presented at the hearing would have swayed Brennan's decision to vote against granting the permit.

133. Upon information and belief, in advance of the hearing, Brennan conspired with City residents, including Cooney and Kluznik, to gin up hostile opposition to Plaintiff's application by deliberately

spreading disinformation about Plaintiff's intentions and encouraging people to attend the hearing to express hostile opposition and further intimidate Plaintiff.

134. Moreover, the ordinance that restricts houses of worship in the City, as set forth below, is unconstitutional; a hearing was unnecessary and there is no process that Grand needs to exhaust to exercise his basic constitutional right to pray in his home.

135. At least ten of the people who spoke in opposition to Plaintiff's application at the hearing were Plaintiff's neighbors and are self-proclaimed affiliates with GESU.

136. Several people who spoke in opposition made statements regarding Plaintiff's Orthodox Jewish religion and expressed that if Plaintiff did not want to walk far to synagogue, he should not have purchased a home in the GESU neighborhood; he should have purchased a home near Green Road where the City permits Orthodox Jewish synagogues.

137. Prior to the hearing, Plaintiff heard one neighbor say to another "Grand is trying to create a Jewish synagogue on our block, and we don't want that type of thing around here."

138. In advance of the hearing, one neighbor sent a letter to the PC expressing opposition to Plaintiff's application, stating:

> I am not Jewish and I do not want our neighborhood labeled as Jewish. This is not prejudice, it is simply common sense. GESU school draws an awful lot of people to University Hts. And that has kept the area vital.

139. At the PC hearing, the PC referenced a petition of 195 signatures in opposition to Grand's application but ignored and refused to mention for the record the existence of petitions of support that Grand submitted in advance of the hearing which all members received copies of prior to the hearing. The petitions included a petition with 240 Jewish residents and a petition signed by six community rabbis.

140. The PC referred to the will of the residents in opposition as the will of the "community" whereas the will of the Jewish residents was not considered at all.

141. After the PC hearing on March 4, 2021, the PC continued to privately deliberate by email, in violation of the Ohio Open Meetings Act.

142. During those private deliberations, on March 9, 2021, Defendant Urban expressly stated that she intended to deny the application based purely on the opposition but decided to vote to table instead because she "firmly believe[d] that course of action would have toed the line of violating fair housing law, and would have put the city in a bad position."

143. Specifically, she cited a Joint Statement of HUD and the DOJ about the FHA's prohibition of discrimination in housing on the basis of religion and other protected classes.

144. Defendant Urban also admitted in the private deliberations that "We don't require other social gatherings occurring in a private home to have a special use permit."

145. Defendant Urban acknowledged the "anti-semetic rhetoric and sentiment that goes against fair housing laws," including:

> "Repeated stated concerns about property tax exemption, especially after it has been explained these concerns are irrelevant, repeated concerns about the Shul being a profit-making commercial business, concerns about community 'change,' claims of long-standing community ownership, statements that the applicant should 'move somewhere else' if inconvenienced."

146. After Plaintiff received his cease-and-desist letter in January, between February and May of 2021, the City took action against at least three other Orthodox Jews that assembled or planned to assemble in residential homes.

147. Upon information and belief, the City did/does not similarly target any poker games, game nights, boy scout meetings, Tupperware parties, fraternities/sororities, or any non-Orthodox Jewish prayer that takes place in residential homes.

148. There currently exists ample evidence, and discovery will reveal further evidence, that the City and Brennan were engaged in a systematic campaign against Orthodox Jews in the City, and their actions against Plaintiff were the tip of the spear.

Plaintiff has been subjected to harassment and intimidation based on his Orthodox Jewish practice and based on personal animus.

149. Plaintiff is not ashamed of his Orthodox Jewish religion and wears a yarmulke on his head when in public.

150. When Plaintiff moved to the Property, most neighbors were immediately aware of his Orthodox Jewish religion when they saw him wearing a yarmulke indicating his religious affiliation.

151. One neighbor openly expressed at a public meeting that from the first time she met Plaintiff, his Orthodox Jewish character made her "suspicious."

152. Brennan has long been aware of Plaintiff's Orthodox Jewish practice because soon after Brennan was elected in early 2019, Plaintiff reserved an appointment with Brennan as the newly elected Mayor and went to the mayor's office wearing a yarmulke to congratulate Brennan on his new position.

153. Plaintiff has experienced hostility from his neighbors and the City because of his Orthodox Jewish religion.

154. Plaintiff's neighbors yelled "you have a temple in your house" and "we don't want your kind here."

155. By way of example, when one neighbor first met Plaintiff, Plaintiff was wearing a baseball cap over his yarmulke, so the neighbor, who was unaware that Plaintiff was an Orthodox Jew, acted kindly towards him, but when he subsequently discovered that Plaintiff was an Orthodox Jew, he began acting hostile.

156. Based on their hostility and suspicion of Orthodox Jews, Plaintiff's neighbors have harassed Plaintiff and made baseless complaints to the City against him.

157. Rather than protect Plaintiff from religious bigotry, the City has decided to placate Plaintiff's neighbors and has also harassed Plaintiff.

158. By way of example, the City has set up regular patrols of Plaintiff's home.

159. On March 23, 2021, the same day that Brennan had publicly called on residents to report any attempts at hosting prayer groups in residential homes, an email was sent out by Lt. Mark McArtor to "Uniform Div." of the City Police Department which instructed:

> As part of your patrols, please make frequent drive-bys at 2343 Miramar Blvd. for violations to 452.03 Prohibited Standing or parking Places of parking on landscaped

> surfaces. If violations are observed, citations will be "the preferred course of action." Also be aware, there is a great deal of contention between this address and the surrounding neighbors since the 2343 resident applied to the Planning Commission for approval to operate a Schul [sic]. If you observe or respond to the location for parking or noise complaints, be sure to log the activity in CAD.

160. Further, Brennan has viewed surveillance footage set up by Plaintiff's neighbor to spy on Plaintiff.

161. Plaintiff's neighbor, a retired police officer, set up three surveillance cameras pointed at and into Plaintiff's house to spy on Plaintiff, his wife, and his young children.

162. Because of the cameras, Plaintiff was forced to keep his bathroom shades down at all times.

163. Brennan admitted in public statements that the retired police officer shared with Brennan and the City Police Department surveillance videos of Plaintiff's activities on his property, and that the City spent many hours and resources responding to him.

164. Upon information and belief, the retired police officer acted with impunity based on direction from Brennan to surveil Plaintiff and assurances from Brennan that, as the mayor, he would shield him from any consequences.

165. Plaintiff asked the City to intervene and have the cameras removed, even citing a City ordinance that prohibits a person from disturbing the privacy of another person and suggesting that setting up surveillance cameras to spy on a neighbor violated the ordinance.

166. Despite Plaintiff's requests, the City did not take any action to enjoin the retired police officer from disturbing Plaintiff's privacy.

167. Specifically, Defendant Stephanie Scalise, the City Prosecutor, through inaction, allowed the surveillance to continue.

168. Because the City did nothing to protect Plaintiff's privacy from the intrusive surveillance by his neighbor - and by extension the City and Brennan - Plaintiff erected a fabric barrier on his own Property to shield him from surveillance, at his own expense.

169. Instead of demanding that Plaintiff's neighbor removes the three cameras, a City attorney informed Plaintiff that the fabric barrier did not meet the City's fence code and demanded that Plaintiff remove it, which he did, at his own expense.

170. Another example of harassment occurred on the afternoon of May 7, 2021, when Plaintiff was visited by a friend from Israel. Plaintiff's friend and an associate were driving through the City together. Plaintiff's friend stopped to visit with Plaintiff in Plaintiff's home, while the associate waited in the car parked outside. The associate, who was wearing a yarmulke, sat in the parked car during the day on the

street outside Plaintiff's house for about an hour and a half. Twice during that time, City police approached his car and asked him "are you here for the shul?"

171. On September 7, 2021, which was Rosh Hashanah - one of the holiest days of the Jewish year - Plaintiff was making his usual trek to Synagogue, which he must do every Shabbos and holiday because the City will not permit him to pray in his home. He saw a suspicious man sitting in a dark unmarked car.

172. Plaintiff approached the man and asked him what he was doing there. The man said he was part of a private security detail and that there were two others on the block and that the City Police were aware of their presence and activities.

173. Plaintiff had no way to verify the suspicious man's dubious claims, which later proved to be false, and Plaintiff had no way to ascertain that the suspicious man parked outside a synagogue during a day of assembly was not armed and/or dangerous.

174. At that moment, Plaintiff credibly feared that the man was a physical threat to him and to the other Orthodox Jews gathering to pray on the holiest day of the year.

175. According to the Anti-Defamation league, Jews are consistently the most targeted religious community in the U.S.; Antisemitic incidents are being reported at record levels: Jewish institutions are vulnerable targets; Jews are regularly targeted because of their actual or perceived support for Israel and Zionism; Extremists and antisemites perpetrate

deadly violence against Jews; Jews have been the targets of at least 21 extremist plots or credible threats since 2016.[3]

176. Because of the looming and very real threat of violence against Jews, the Jewish Federation of Cleveland organizes private security details *in marked vehicles* to protect the Jewish community on a daily basis, which is why the unmarked vehicle stalking the synagogue on Rosh Hashanah was so suspicious.

177. According to the FBI, crimes targeting the Jewish community consistently constitute over half of all religion-based crimes. There have been dozens of attacks and plots of violence and terrorism against synagogues in the last few years. For example: In December 2019, Jews were attacked while attending a Chanukah party at a rabbi's house in Monsey, New York, leaving one Jew murdered and four injured; In April 2019, Jews attending a synagogue in Poway, California were attacked, leaving one Jew murdered and three injured; In October of 2018, Jews attending the Tree of Life Synagogue in Pittsburgh, Pennsylvania were attacked, leaving 11 Jews murdered, and seven injured, including four police officers; In January 2022, in Colleyville, Texas, a gunman entered a synagogue during services and took three congregants and a rabbi as hostages; In

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[3] *See* Anti-Defamation League, *Six Facts About Threats to the Jewish Community,* Jan. 16, 2022, www.adl.org/blog/six-facts-about-threats-to-the-jewish-community (last visited Sept. 5, 2022).

November 2019, in Pueblo, Colorado, federal authorities arrested a Neo-Nazi on charges related to an alleged plot to blow up a synagogue.[4]

178. Plaintiff was apprehensive about going into synagogue, fearing that the suspicious man could be related to a terrorist plot.

179. Plaintiff then heard the man talking on the phone and he heard the man say, "Yes, Mr. Mayor. Yes, Mr. Mayor." Plaintiff believed that the suspicious man was speaking to Brennan.

180. When other members of the Jewish community became aware of the suspicious man's presence, a Jewish person was compelled to use their cell phone to call law enforcement, something that on a Jewish holiday is only allowed by Jewish law when there is a potential threat to human life.

181. It was subsequently revealed at a City Council meeting that Brennan authorized the hiring of a private investigator to sit outside of the home of an Orthodox Jewish family to spy on Orthodox Jewish residents and to gain information about Orthodox Jews praying in residential homes on one of the holiest days of the year.

182. The event was deeply traumatizing to Plaintiff because at the time he had a reasonable apprehension of bodily harm to him and his family.

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[4] *See id.*

183. Brennan knew or should have known that his actions would naturally and probably intimidate Plaintiff and other Orthodox Jews from exercising their religion by creating the apprehension of bodily harm.

184. On July 28, 2021, Plaintiff submitted an information request form to the City seeking: "any and all emails having anything to do with Daniel Grand and or my property 2343 Miramar Blvd. Emails from the Law Director, the Mayor, Council Members, the Police Dept., the Fire Department, Service Department, and from administration personnel, clerical or otherwise, Building Department, Housing Department, any and all files related to Daniel Grand, AKA Danny Grand, and Property 2343 Miramar Blvd."

185. Plaintiff followed up several times, including the most recent emails sent to the City on June 22, 2022, and September 2, 2022, over a year later, and to date, the City has not responded to Plaintiff's request.

186. During this time period, the City received multiple requests about Grand's property from other individuals and made sure to expeditiously satisfy the requests so as to avoid exposure to "monetary sanctions."

187. After this lawsuit was filed, the City produced some documents in response to Plaintiff's request, but the City has yet to satisfy Grand's request in full.

188. The City clerk informed Plaintiff that the file he requested that the City has not provided to him is "thousands of pages long."

189. Upon information and belief, there is no other resident who moved to University Heights only a few years ago, as Plaintiff did, that has a file with the City that is thousands of pages long.

190. The length of the file is due to Brennan's and the City's singling out Plaintiff for harassment because of his religious practice and because of personal animus.

191. From the end of May until early July of 2021, the City singled out Plaintiff's home by intermittently stopping the pickup of Plaintiff's garbage on the regular garbage day.

192. Plaintiff was forced to complain several times to the City sanitation workers about skipping his home, and made several calls to the service director, but nobody would give Plaintiff a reason as to why he was being singled out among his neighbors and being skipped.

193. Finally, after several weeks of calling the service director, the service director arrived unannounced at Plaintiff's property and was hostile to Plaintiff and to Plaintiff's wife.

194. The service director said he ordered his staff to skip Plaintiff's Property because the conditions of Plaintiff's Property made it difficult to pick up the

garbage cans. The Director said that they would only pick up Plaintiff's garbage if he put it on the curb.

195. No other neighbor on Plaintiff's street is required to do so; however, Plaintiff's property is not different from his neighbors who were not singled out by skipping.

196. Based on the known examples of harassment and targeted enforcement of Plaintiff because of his religious practice and because of personal animus against him, it is highly plausible and likely that the file about Plaintiff that the City has withheld - that is "thousands of pages long" - as well as additional discovery will reveal other instances of targeted arbitrary and capricious harassment and enforcement against Plaintiff because of his religious practice and because of personal animus against him.

Immediately after Brennan's March 23, 2021, call to action against Plaintiff, Brennan and the City used the pretext of a parked car on Plaintiff's Property to persecute Plaintiff.

197. Prior to March 23, 2021, the City had never issued a violation to Grand concerning his property.

198. On March 23, 2021, at a public meeting, Brennan publicly called upon Plaintiff's neighbors and City residents to report to the City if they observed any activity by Plaintiff that was consistent with what Plaintiff requested, *i.e.,* to report any gathering of Orthodox Jews at Plaintiff's home, and if any such activities occurred, "the City will enforce its laws which exist for the benefit of the entire

community, and we will seek all appropriate remedies in court."

199. Brennan's comments ginned up further hatred and animus for Plaintiff among his neighbors and fueled the conflagration of discrimination that Brennan had encouraged.

200. Brennan also escalated the discrimination against Plaintiff by authorizing and initiating a systematic attack against Plaintiff using municipal powers to target Plaintiff, and to harm Plaintiff economically.

201. Brennan and the City abused the municipal power by using the City's ordinances to persecute Plaintiff, a law-abiding citizen, by unlawfully stretching extremely vague and inapplicable ordinances to reach conduct by Plaintiff that Plaintiff had every reason to believe was lawful.

202. In accordance with the maxim "show me the man and I'll find you the crime," Brennan and the City and McConville and Scalise and Englebrecht prosecuted Plaintiff because of his religious practice and because of personal animus under the guise of enforcing laws regulating day-to-day activities.

203. On March 23, 2021, the same day that Brennan had publicly called on residents to report any attempts at hosting prayer groups in residential homes, an email was sent out by Lt. Mark McArtor to "Uniform Div." of the City Police Department which instructed:

> As part of your patrols, please make frequent drive-bys at 2343 Miramar Blvd. for violations to 452.03 Prohibited Standing or parking Places of parking on landscaped surfaces. If violations are observed, citations will be "the preferred course of action." Also be aware, there is a great deal of contention between this address and the surrounding neighbors since the 2343 resident applied to the Planning Commission for approval to operate a Schul [sic]. If you observe or respond to the location for parking or noise complaints, be sure to log the activity in CAD.

204. Two days after Brennan's March 23, 2021, public address calling on neighbors to report Plaintiff, the wife of the retired police officer who invaded Plaintiff's privacy by installing surveillance cameras aimed into Plaintiff's home, directly responded to Brennan's call to action and called Brennan to report on Plaintiff.

205. On March 25, 2021, at 9:29 AM, the retired police officer's wife called the police to report a truck parked on Plaintiff's Property on a small dirt/gravel area adjacent to Plaintiff's driveway, between the end of Plaintiff's driveway and his front door.

206. The truck, which had Virginia license plates and a handicap placard in the windshield, belonged to Plaintiff's visiting friend, a physically disabled military veteran, who arrived from out of town in the early hours of the morning of March 25, 2021, and parked in the dirt/gravel area because it was close to

the front door and his disability makes walking difficult. The vehicle did not belong to Plaintiff, and Plaintiff did not park the vehicle.

207. The police told her "The truck was parked on gravel so it was fine."

208. She sent an email to Brennan complaining that the police told her that they would not issue Plaintiff a citation as she had requested.

209. Brennan immediately emailed the Police Chief Dustin Rogers, the Police Lieutenant Mark McArtor, the Director of Housing Geoff Englebrecht, and the Law Director Luke McConville, seeking advice on how to issue a citation to Plaintiff.

210. Police Chief Rogers wrote back and offered some suggestions on how to catch Plaintiff.

211. Police were dispatched and issued a citation for parking on the dirt/gravel area.

212. The police left the scene at 10:23 AM.

213. Plaintiff returned from morning prayers at approximately 10:30 AM to find the ticket on the windshield of his friend's vehicle. Plaintiff promptly moved the vehicle from the area.

214. At 11:06 AM, Police Lt. Mark McArtor sent an email to all City police units, copying the Police Chief, ordering them to be on the lookout for parking violations at 2343 Miramar Blvd., Plaintiff's

Property, and specifically to issue citations if any cars are parked in the dirt/gravel area.

215. At 2:27 PM, Lt. McArtor sent another email to the same recipients instructing officers to disregard his earlier email at 11:06 AM because he consulted with the City Prosecutor Stephanie Scalise about Plaintiff and Scalise advised that citations should not be issued to Plaintiff for parking on the dirt/gravel area because "the matter is more of a Building Department enforcement issue than a police matter."

216. Ultimately, the parking citation was rescinded.

217. This is not the normal procedure for analogous situations. For example, college students at the local university who live in residential homes in the area can be seen everyday parking all over properties - on the grass, in the apron, half off driveways, etc. - and they rarely if ever are given citations. In the rare event that they do receive citations, the Mayor, Law Director, Director of Housing, Chief of Police, Police Lieutenant, all police units, and the City Prosecutor are not involved.

218. On March 28, 2021, City Prosecutor Stephanie Scalise sent an email to the retired police officer's wife assuring her that the City had a plan to criminally prosecute Grand.

219. The email stated:

> "I have had a productive conversation with our Mayor. I learned that a housing inspector

has been directed to conduct an inspection and issue a written 10-day notice for all violations he sees. At this point, I am awaiting an update from the inspector and have even made a note on my calendar to proactively contact him when that 10-day deadline might be up to determine next steps. The 10-day notice is the first step in laying a foundation for a successful prosecution if it becomes necessary. I will note that the city cannot just walk into anyone's home anytime it wants. Even if neighbors request inspections on a nearby property, we have either have the property owner's permission or get a search warrant from the court. A search warrant for housing code violations is very hard to obtain. I have to convince a court that there's enough evidence to be sure that major violations are occurring in a way that it's enough to override a homeowner's right to privacy. It's a big wall to jump over, but not impossible. I say all of that to say, it would not be a surprise to me if our inspector comes back with a list of external violations based only on what he can see from the sidewalk. That type of list, however, may be enough to get me started on a process of getting a court to order more. Realistically, this will probably be a long process and it will likely still feel like nothing is happening for awhile. I'm not doing you any favors if I don't tell you that up front. But, I can promise you that no one is ignoring this now. Between the mayor's office, the housing

> department, and my office, we are all pressing forward as urgently as we can."

220. This email clearly shows City residents and City officials working in tandem to manufacture a violation so Grand could be criminally prosecuted.

221. To make matters worse, the Defendants did this during the holiday of Passover, when they knew that Grand would not be able to respond, and to harass Grand during his holiday and interfere with his religious celebration.

222. Planning Commission members also indicated that any manufactured violations should bar Grand from applying for any SUP.

223. The manufactured violations have also been used to withhold Grand's certificate of occupancy and tax abatement application, and have caused other injuries to Grand, as set forth below.

224. City building inspector Brown was the one assigned to manufacture violations that Prosecutor Scalise could use to "lay[ ] a foundation for a successful prosecution" as she stated in her email above.

225. On March 25, 2021, Chief of Police Rogers sent an email to Brennan, McArtor, the head of the Building Department, and McConville recommending that instead of the police, the Building department should "take the lead on this matter going forward." Chief Rogers added, "However, the PD will assist in any way we can to resolve this matter, to include

patrol officers responding after hours to photograph/video possible evidence of a complaint/infraction. In this matters, Lt. Mark McArtor will follow up directly with Fred [White, head of Building Department]."

226. Twenty minutes later, Law Director McConville gave instructions in an email to Brennan, Chief Rogers, Lt. McArtor, White, and Prosecutor Scalise.

227. At the same time, Brennan sent an email to Inspector Preston, Inspector Brown, and Prosecutor Scalise. Inspector Preston is the City Building Department Inspector who is normally assigned to Grand's property as part of his assigned area. On March 25, 2021, Brennan emailed Preston, Inspector Brown, and Scalise and told Preston, "Until further notice, I will be having [Inspector Brown] working on violations relating to 2343 Miramar. As Miramar is one of your streets, if you observe any condition there, please refer it to [Inspector Brown] so he may then observe and tag. If [Inspector Brown] is unavailable, then go ahead and tag what you observe, and then refer it to [Inspector Brown]."

228. Brennan forwarded Law Director McConville's instructions to Brown.

229. Brennan emailed McConville, Rogers, McArtor, Fred White, and Scalise to let them know, "Housing Inspector Brown is coming over to my office already at 2pm to discuss another assignment I have for him regarding this property."

230. On March 26, 2021, Brennan sent an email to Brown: "Also, prepare it now, but wait till this afternoon to send/serve it. I am meeting with Stephanie Scalise later this morning to discuss the situation. Possible we might change course after our chat at 11:45 this morning."

231. On March 29, 2021, Brennan asked Brown for an update. Brown responded on March 30, 2021, "Here is the inspection report on this. It [is] in the mail now it should be there by tomorrow or the 1st. [of April 2021]"

232. Saturday, April 3, 2021, a letter was delivered to Plaintiff's home from the City. As soon as Passover ended on Sunday night April 4, Plaintiff opened the letter and found that the Building Department, Inspector Brown, Prosecutor Scalise, Brennan, Chief Rogers, Lt. McArtor, and Law Director McConville had devised a pretext to issue him a citation for his handicapped veteran friend's car being parked on the dirt/gravel area, nine days earlier.

233. The citation was issued just after the Mayor's March 23, 2021 speech where he promised to "enforce the City's laws" against Grand. The proximity clearly shows retaliation for Grand attempting to pray in his home.

234. The letter was dated March 30, 2021, five days after the car was moved, and seven days after the Mayor's promise to "enforce the laws" against Grand.

235. The citation states:

> You are hereby notified that you are in violation of city ordinance no. 2063-20 of the codified ordinances of the City of University Heights in regard to the following:
>
> 1242.99 - PLEASE REMOVE STONES FROM THE AREA NEAREST TO THE GARAGE THAT IS BEING USD [sic] TO EXTEND DRIVEWAY

236. The citation does not explain what "city ordinance no. 2063-20" is, and there is no such ordinance in UHCO.

237. Though the citation does not explain it, "1242.99" refers to UHCO 1242.99, a lengthy, vague, multi-part provision that applies to the City's authority to issue citations for violating the Zoning Code.

238. The provision says nothing about "stones," "garages" or "driveways."

239. The citation gives no indication as to which part of 1242.99 was violated.

240. It is impossible for Plaintiff to violate 1242.99 because it does not apply to him.

241. The citation does not explain why "stones" are illegal or why they must be removed.

242. The police told the retired police officer's wife "the truck was parked on gravel so it was fine."

243. The City was aware of the presence of gravel stones in the dirt/gravel area for at least 10 months prior to March of 2021 and never had a problem.

244. It was not possible for Grand to remove the "stones" that were "being used to extend the driveway" because the dirt/gravel area that the City was referring to was mostly dirt with only a few scattered rocks, and Grand had never placed "stones" there to build an extension to his driveway. The entire accusation by the City in the citation is false.

245. Other residents have similar dirt/gravel areas on their properties, but upon information and belief, the City has never issued a citation to anyone for a similar condition, citing UHCO 1242.99 or otherwise, and demanding the stones be removed.

246. The citation was obviously a malicious attempt by Brennan, the Law Director, the Building Department, the Police, and the Prosecutor to invent a pretext to issue Plaintiff a citation that could not possibly be remedied and would inevitably lead to criminal prosecution.

247. The Citation stated that "the owner or operator of any structure or premises shall have the right to appeal from any order of, or written notice issued by, the Building Commissioner. The Appeal shall be written and submitted within 15 days from the date of such notice."

248. The citation did not give any instructions as to the manner of appeal or to whom to appeal.

249. The following Monday, April 5, 2021, the earliest possible day that Plaintiff could have appealed, Plaintiff appealed to the City by submitting a request for a permit to cure the dirt/gravel area by installing a concrete pad over the dirt/gravel area, rather than remove the "stones", because, as mentioned above, there were no "stones" to remove.

250. Pursuant to the UHCO, Plaintiff was entitled to a permit as of right because he was entitled to 25% lot coverage, and with the additional concrete he would only be at 23.09%.

251. Additionally, the City was required to grant him a permit as of right because, pursuant to the UHCO, the area is a 290-square-foot patio, and patios less than 300 square feet are permitted as of right.

252. Plaintiff further supported his appeal by noting that the City Engineer had issued a report in August of 2020 after inspecting the dirt/gravel area and had determined that there were "no issues with the request by Mr. Grand to expand his patio and driveway area." Plaintiff attached to his appeal drawings showing the area as 290 feet and the lot coverage being under 25%, and the report from the City engineer.

253. Even if a violation of 1242.99 was a legitimate violation, which it is not, Plaintiff was not in violation because gravel is not prohibited anywhere in the UHCO.

254. By the next day, Plaintiff did not receive a response to his appeal, so he called the City but was unable to receive confirmation that his appeal was received.

255. Plaintiff called and emailed several more times over the next two weeks but received no confirmation.

256. Finally, on April 21, 2021, Plaintiff reached the City building department and was told for the first time that he was required to appeal the citation to the City Board of Zoning Appeals ("BZA").

257. On April 21, 2021, Plaintiff promptly appealed the citation to the BZA and submitted a reasonable request to cure the driveway situation, so to avoid criminal prosecution.

258. Plaintiff followed up several times over the next few days and received no response.

259. On April 23, 2021, Brennan emailed Inspector Brown "I have become aware of Mr. Grand's repeated requests. We will be telling him formally that it is being denied."

260. In other words, there was no way for Grand to avoid criminal prosecution because it required him to remove stones that were not there.

261. Finally, on April 28, 2021, almost a month after Plaintiff submitted his initial appeal, the City law director responded by denying the violation

appeal and denying the request to cure the gravel area situation before the BZA.

262. The letter stated that the request to cure the gravel situation was summarily denied; Plaintiff was not granted a hearing before the BZA, and the letter did not indicate that the BZA considered the application or that the City even submitted the application to the BZA for review.

263. The letter further stated that Plaintiff's appeal of the citation was denied because Plaintiff was required to file the appeal within 15 days from the date of the notice. As the notice was dated March 30, the deadline was April 14.

264. As Brennan's email to inspector Brown on April 23, 2021, shows, the City deliberately obstructed Plaintiff's initial appeal by not responding to him until after the deadline to appeal to the BZA had passed so that the City could deny his appeal based on untimeliness.

265. On May 2, 2021, Plaintiff sent an email to the City Council, copying Brennan and the law director, forwarding a letter sent to Brennan by Plaintiff's attorneys arguing that preventing Plaintiff from hosting religious gatherings in his home is a violation of Plaintiff's constitutional rights.

266. Upon information and belief, Brennan retaliated against Plaintiff by ordering an escalation of the ongoing police surveillance of Plaintiff's house.

267. On May 7, 2021, a man wearing a yarmulke was parked in front of Plaintiff's house waiting for a friend who was visiting Plaintiff. While the man was parked there, two separate police units approached him within a span of 30 minutes, both units asked the man if he was "here for the shul."

268. That day, Plaintiff wrote a scathing email to Brennan copying the entire City Council and Plaintiff's attorneys, chastising Brennan for the surveillance.

269. On May 10, 2021, eight days after Plaintiff revealed that he had legal representation and three days after Plaintiff brought the ongoing surveillance to the attention of City Council, the City law director responded with a letter admitting that Plaintiff was entitled to a hearing about the dirt/gravel area and informed Plaintiff that he would be granted a hearing at the June 2021 meeting of the BZA.

270. Regarding UHCO 1242.99, the Law Director's letter stated:

> While the Notice of Violation cites [UHCO] 1242.99, the Housing Inspector also could have cited [UHCO] 1274.04, which indicates that all driveways must be a hard surface, such as asphalt or concrete. You have previously parked vehicles on the concrete stones and used the area as an extension of your driveway, a use which violates [UHCO] 1280.03.

271. UCHO 1274.04 applies to driveways for houses of worship, not residential homes.

272. By the Law Director stating that 1274.04 would apply to Grand, the Law Director implicitly revealed that the City was retaliating against Grand for his desire to pray in his home.

273. Further evidence of the City's desperation to unlawfully issue arbitrary, capricious, and discriminatory citations is the Law Director's accusation that "you have ***previously parked vehicles on the concrete stones*** and used the area as an extension of your driveway, a use which violates [UHCO] 1280.03 (emphasis added)." Since the ordeal that began with Plaintiff's disabled friend parking his truck on the gravel area, there had never been any allegation or evidence presented that Plaintiff had "previously parked vehicles" on the area or that Plaintiff had placed "concrete stones" on the area.

274. On May 18, 2021, while Plaintiff's appeal of the unlawful citation was pending with the BZA and awaiting a hearing at the June 2021 meeting, the City sent Plaintiff a "notice of noncompliance" stating that Plaintiff's file had been referred by the housing inspector "for the purpose of pursuing criminal charges with regard to the failure to correct the violations that remain on the referenced property."

275. The City had further escalated Plaintiff's friend's parking violation into a criminal matter against Plaintiff.

276. Genuinely concerned about ongoing criminal prosecution, Grand was unable to remedy the situation because, as mentioned above, there were no "stones" to remove, and his violation appeal was denied, and his attempt to obtain a hearing before the BZA was denied as well, on June 10, 2021, Plaintiff had no choice but to go so far as to purchase stones and dirt from Walmart to fill up in bags, that he then placed beside his house to show that the "stones" had been removed from the area, and to pretend to "remediate" the area by pushing some dirt back and forth, but really doing nothing.

277. On July 6, 2021, Plaintiff sent a follow-up email to the City with photos showing that the gravel had been "remedied" on June 10.

278. Director of Housing Englebrecht called Grand and left a voicemail to confirm that the "stones" had been removed.

279. The irony is, the before and after photos of the area were practically identical, aside from the bags of dirt and stones from Walmart. This shows that the citation was fake.

280. A few days later, the City sent Plaintiff a citation for a new "violation."

281. The new citation retroactively denied approval for a fence that Plaintiff had constructed on his Property - after the City had previously approved, permitted, inspected, and signed off on it.

282. Plaintiff's neighbors have fences in identical or substantially similar circumstances but none of his neighbors were issued citations.

283. What is set forth above is just a portion of the arbitrary, capricious, and discriminatory treatment that the City subjected Plaintiff to in a relentless and coordinated attempt to subject him to criminal prosecution because of his religion and because of personal animus towards him. Discovery will likely reveal further examples.

284. The arbitrary, capricious, and discriminatory treatment is ongoing and continues to this very day.

285. Brennan and the McConville are directly involved in all building matters related to Plaintiff and his property, which is a deviation from the normal procedures.

286. Brennan and the McConville have ordered and continue to order building officials to issue stop work orders and citations for non-violating conditions, and to deny permits for improvements to Grand's home that are allowed by UHCO as of right.

287. The City has refused to grant Plaintiff a Certificate of Occupancy for no legitimate reason.

288. This is a routine matter and only requires an administrative sign off, which the City refuses to do.

289. In fact, on January 17, 2022, in a letter from the head of the Building Department Fred White to Brennan, McConville, City Engineer Joseph Cuini,

and City Fire Department Director Robert Perko, Fred White wrote, "Final inspections were approved on [Grand's] house addition and remodeling. He is requesting a certificate of occupancy. The certificate of occupancy shall be issued unless there are pending violations on the property. Not sure if the fence is a violation because the building department issued a fence permit with a drawing showing the fence at the front line of the house. I sent Luke [McConville] a copy of the fence permit."

290. Even after the letter from Fred White, the City continued to withhold the certificate of occupancy for no lawful reason.

291. The refusal to grant a certificate of occupancy has caused real financial harm to Plaintiff; as a result, Plaintiff was and is prevented from receiving a tax abatement for his home.

292. Plaintiff submitted his application for a tax abatement in person to the clerk for the building department, on January 31, 2022.

293. When Plaintiff submitted his application, he was told by the clerk that he needed to submit a deed to his home.

294. As instructed, Plaintiff emailed a copy of the deed to the clerk that same day on January 31, 2022.

295. On September 20, 2022, after this lawsuit was filed, the clerk forwarded Plaintiff's email from January 31, 2022, with the deed attached to Geoff Englebrecht head of the housing department, and

wrote in the email, "2343 miramar deed – for tax abatement."

296. Grand has confirmed with the clerk and the clerk recalls the day Grand dropped off the tax abatement application, and that the application has been forwarded multiple times to the housing department.

297. Without a Certificate of Occupancy, Plaintiff is prevented from selling his home.

298. Also, without a Certificate of Occupancy, Plaintiff cannot be approved for an application for home occupancy, which requires a certificate of occupancy on file.

299. Because of the inability to be approved for home occupancy, Plaintiff cannot use his home for any business.

300. As a direct result of this arbitrary, capricious, and discriminatory refusal to issue a certificate of occupancy and relatedly the refusal to report his tax abatement, Plaintiff's monthly payment on his home has increased substantially.

301. The City and its officials have obsessively and continually sought to create a pretext to build a criminal case against Grand and/or his wife.

302. Housing Director Geoff Englebrecht told a resident regarding Grand's property, "I did speak with the Law Director regarding the property. I would not be able to go into too much detail about what was

said during the meeting, however, know that the City will begin to move in one way or another soon in regards to the property."

303. For instance, on August 5, 2021, Building Director Geoff Englebrecht made inquiries with the County Fiscal Office about Grand, but came up empty handed.

304. Over a year later, on August 15, 2022, Building Director Geoff Englebrecht, sent an email to the police department's administration with the subject, "[Grand's wife], Request for SSI and DOB…" The email stated, "I hope all is well. I'm looking to file a case against the following property owner: [Grand's wife], 2343 Miramar Blvd. University Heights, OH 44118. Please let me know if you need any other information." This shows ongoing harassment.

305. On August 23, 2022, Geoff Englebrecht requested that Mike Cicero, assistant law director, make out a Complaint against Grand.

306. This lawsuit was filed shortly thereafter, and a case was never brought against Grand or his wife.

University Heights codified ordinances, on their face and as applied, violate the United States Constitution, the Ohio Constitution, and RLUIPA and Ohio common law.

The City has unbridled discretion to allow or deny prayer in the City.

307. As set forth above, the City and Brennan apply the City's zoning code such that they consider people praying in their homes to be a "house of worship," and the City does not permit such activity without a Special Use Permit ("SUP"), pursuant to UHCO Chapter 1274.

308. Houses of worship are not permitted as of right anywhere in the City.

309. Of the City's nine zoning districts, U-1 through U-9, houses of worship are not permitted by right or with an SUP in U-3, U-5, U-6, U-7, U-8, or U-9. Houses of worship are only permitted in districts U-1, U-2, and U-4, by obtaining a SUP, pursuant to the standards and criteria of UHCO Chapter 1274.

310. The standard process for obtaining a SUP is to first obtain a recommendation from the Planning Commission ("PC") by demonstrating "by clear and convincing evidence that the provisions of [Chapter 1274] will be met and that the special use will not impair surrounding property values or uses, vehicular parking and pedestrian or traffic conditions, lighting glare at night, noise pollution to others or other applicable criteria in the Planning and Zoning Code, and will not be otherwise contrary to the public health, safety and welfare."

311. If an applicant is successful in obtaining a recommendation from the PC, "the recommendation of the Planning Commission shall be subject to the approval of a majority of [City] Council," and upon

such approval, a certificate of occupancy should be issued.

312. UHCO Chapter 1274 provides no standard that the City Council must adhere to when considering whether to grant approval for an application for a SUP for a house of worship, accordingly, City Council, which is the City's elective legislative body, has unbridled discretion in approving or denying a SUP for a house.

313. The Ordinance allows the PC and City Council to take into account an applicant's personality, race, religion, and/or other traits unrelated to land use when considering whether to grant or deny a SUP for a house of worship, and to deny an application simply because the governing body finds that the applicant lacks likability, charisma, or spirituality.

314. Even if the PC gives its recommendation to approve an application for a SUP, the City Council can deny the application for any reason, no reason, or a discriminatory reason.

The standards and criteria of Chapter 1274 for a SUP are impossible to satisfy.

315. The provisions of Chapter 1274 that must be satisfied to obtain a PC recommendation for a SUP include requirements with respect to location, minimum lot size, yard size, height, landscaping, and more.

316. Houses of worship are only permitted in the U-1, U-2, and U-4 zoning districts, and only with a SUP.

317. The provisions and restrictions set forth in Section 1274 apply only if the property in question has frontage on one of the following six (6) streets: Cedar Road, Warrensville Center Road, South Taylor Road, Fairmount Boulevard, North Park Boulevard, Green Road (the "Permitted Streets").

318. Properties on "other" streets are subject to the same burdensome restrictions, as well as an even more restrictive and burdensome standard, as set forth below.

319. With the exception of Warrensville Center Road, all of the Permitted Streets are located at the extreme borders of the City.

320. Houses of worship in the U-1, U-2, and U-4 zoning districts require a minimum lot area of three (3) acres.

321. A building may only be used as a house of worship if it was originally designed and approved for use as a house of worship.

322. A residence, store or other building cannot be converted into a house of worship.

323. A house of worship cannot include a residence on any part of the site.

324. The building cannot exceed 25% of the total lot area; a minimum of 50% of the site shall be devoted to open space and developed as planted areas; minimum lot frontage is 150 feet; and the front yard must be a minimum of 75 feet deep.

325. The minimum parking requirement for a house of worship is the greater of: one space per 200 square feet of gross floor area of the entire building including the basement, measured from the exterior faces of the building (not less than 30 spaces); one parking space for each two seats provided within any and all rooms used for assembly; and one parking space for each two persons allowed as legal maximum occupancy.

326. The provisions of Chapter 1274 are so restrictive that no applicant can meet them and therefore any prospective house of worship is both unreasonably limited and totally excluded from the City.

327. Upon information and belief, there are a total of 315 parcels of land in the U-1, U-2, and U-4 zoning districts that have the required frontage on one of the Permitted Streets; the average parcel size of those 315 parcels is 0.4 acres and only three (3) parcels have a minimum lot size of three acres; of those three parcels, only two have the required 150 feet lot frontage; of those two parcels, only one has 50% open space; and that one parcel does not have a building that was originally designed for use as a house of worship. Accordingly, upon information and belief, there are zero (0) parcels in all of University Heights

that meet the necessary standards and criteria required to obtain a SUP pursuant to UHCO Chapter 1274.

328. When interrogated about this, the City responded by saying "... it is believed that no parcels in a U-1 zoning district without a SUP meet the requirement for a 3-acre parcel. Answering further, parcels have been aggregated in the past in order to obtain a SUP on aggregated parcels less than 3 acres, and land can be aggregated and consolidated to create a 3-acre parcel."

329. No variance from any of the requirements or prohibitions under Chapter 1274 may be granted without the approval of the Planning Commission and the approval of Council, each following public hearings at which the applicant demonstrates a clear benefit to the community and that denial will result in an unnecessary hardship to the applicant.

330. The standard of "a clear benefit to the community and that denial will result in an unnecessary hardship to the applicant" lacks any narrow, objective, and definite standards to guide the Planning Commission or the City Council.

331. A higher standard must be met to obtain a SUP on "other" streets: "A special use permit may be issued by the Planning Commission for land fronting on other streets where the applicant demonstrates by clear and convincing evidence that the use will benefit and not impair surrounding property values or uses, vehicular parking and pedestrian congestion or traffic

conditions, noise pollution and will not be otherwise contrary to the public health, safety or welfare, subject to the approval of a majority of Council."

332. The standards lack any narrow, objective, and definite standards to guide the Planning Commission or the City Council.

333. Additionally, Chapter 1274 lacks any reasonable time limits for which City Council must render a decision.

Chapter 1274 violates the United States Constitution, RLUIPA, the Ohio Constitution, and Ohio common law.

334. Chapter 1274 substantially burdens Plaintiff's exercise of religion by depriving him of the ability to pray in his home.

335. Chapter 1274 also deprives Plaintiff of the ability to have a place of worship where he lives. *See Young Israel Org. v. Dworkin*, 133 N.E.2d 174, 183 (1956).

336. The UHCO does not identify any compelling governmental interest to justify the draconian provisions of Chapter 1274.

337. Even were the City able to point to a compelling governmental interest to justify the provisions of Chapter 1274, which it cannot, there are obvious and apparent means of achieving any such interests in a less restrictive manner.

338. Pursuant to the Ohio Constitution, the state may not even indirectly encroach upon religious freedom unless the encroachment serves a compelling state interest and is the least restrictive means of furthering that interest. *Humphrey v. Lane*, 728 N.E.2d 1039, 1045 (Ohio 2000).

339. The City's zoning regulations that pertain to the religious use of property within the jurisdiction create uncertainty, delay and expense for Plaintiff, as Plaintiff has been forced to hire lawyers, pay application fees, and allocated valuable time because of the regulations.

340. The City has enforced the UHCO to prevent Orthodox Jewish religious worship.

341. In addition to the enforcement action taken against Plaintiff, the City has taken similar action against other Orthodox Jews praying in residential homes.

342. Upon information and belief, the City has singled Orthodox Jewish residents for special treatment when applying its zoning code.

343. Pursuant to UHCO § 1242.99, "any use of any land or building which is conducted, operated or maintained contrary to any of the provisions of this Zoning Code shall be unlawful," and any such violations are subject to the penalties of fines and imprisonment.

344. The UHCO, on its face, imposes land use regulations in a manner that treats religious

institutions on less than equal terms with non-religious institutions.

345. Pursuant to § 1250.02, included in the list of "permitted uses" in the U-1 zoning district are: "(b) Buildings, structures and grounds owned and operated by a board of education, municipality or by a library board."

346. Pursuant to § 1252.02, included in the list of "permitted uses" in the U-2 zoning district are: "(a) All uses permitted in One-Family Residence Districts and as regulated in such Districts, except as modified hereinafter."

347. Pursuant to § 1256.02, included in the list of "permitted uses" in the U-4 zoning district are: "(a) All uses permitted in Two-Family Districts (Section 1252.02) and as regulated in such Districts, except as modified hereinafter."

348. Buildings, structures and grounds owned and operated by a board of education, municipality or by a library board are not subject to the requirements of Chapter 1274.

349. Buildings, structures and grounds owned and operated by a board of education, municipality or by a library board are not subject to the requirement of having to obtain a SUP.

350. The UHCO permits as of right the principal uses of "Buildings, structures and grounds owned and operated by a board of education, municipality or by a

library board," within the U-1, U-2, and U-4 zoning districts without requiring a Special Use Permit.

351. "Buildings, structures and grounds owned and operated by a board of education, municipality, or by a library board" uses are nonreligious assembly and/or institutional land uses.

352. Accordingly, on its face, UHCO Chapters 1250, 1252, and 1256 treat houses of worship on less than equal terms as nonreligious assembly and institutional uses.

353. The UHCO permits other non-religious assembly and institutional uses by right within the city's jurisdiction, while houses of worship are not permitted by right anywhere.

354. The UHCO permits by right various nonreligious assembly and institutional uses within certain zoning districts, while houses of worship are not permitted by right anywhere within the City.

355. As described above, houses of worship are not permitted by right anywhere in the City.

356. As the Defendants have interpreted Section 1274 to include Orthodox Jewish Prayer in a residential home, it follows that Orthodox Jewish prayer is not permitted by right anywhere in University Heights, save a few synagogues.

357. The UHCO allows various nonreligious assembly and institutional uses within certain zoning districts without being subject to Chapter 1274, while

houses of worship are subject to Chapter 1274 regardless of where they are located in the City.

358. Pursuant to UHCO § 1258.02, "athletic fields and stadia or other spectator seating facility" are permitted as of right in the U-5 zoning district and are not subject to Chapter 1274.

359. Upon information and belief, such facilities may have much greater land use impacts, including traffic and parking impacts, than a house of worship.

360. Pursuant to UHCO § 1260, "Office buildings: professional, administrative, executive, governmental" are permitted as of right in the U-6 zoning district and are not subject to Chapter 1274.

361. Upon information and belief, such facilities have much greater land use impacts, including traffic and parking impacts, than a house of worship.

362. Pursuant to UHCO § 1264.02, "assembly halls" are permitted in the U-8 zoning district as of right and are not subject to Chapter 1274.

363. Upon information and belief, such facilities have much greater land use impacts, including traffic and parking impacts, than a house of worship.

364. Pursuant to UHCO § 1266.02, the following nonreligious assembly and/or institutional uses are permitted in the U-9 zoning district as of right: Libraries, Museums, Community Theaters, Assembly Halls, and Meeting Places.

365. Houses of worship are treated on less than equal terms as "athletic fields and stadia or other spectator seating facility," "Office buildings," "Libraries," "Museums," "Community Theaters," "Assembly Halls," and "Meeting Places," because the latter uses have the opportunity to locate somewhere within the City without being subject to the burdensome requirements and highly discretionary review procedures of Chapter 1274 and the SUP requirement, while houses of worship do not.

Defendants conspired to deprive Plaintiff of his constitutional rights through unlawful means.

366. The City, Brennan, McConville, Scalise, Englebrecht, Fine, Urban, Siemborski, Cooney, Kluznik, and other unnamed residents conspired to unlawfully deprive Grand of his constitutional rights.

367. Specifically, because of the actions of the named Defendants and others working in concert, Grand was denied his right to assemble and exercise his religion in his home.

368. Also, because of the actions of the named Defendants and others working in concert, Grand was deprived of his rights and property without due process, as guaranteed by the constitutions of the United States and Ohio.

369. Also, because of the actions of the named Defendants and others working in concert, Grand was denied his right to equal protection under the City's ordinances.

370. The conspirators were in agreement with the general conspiratorial objective that under no conditions shall the Jewish community be allowed to expand west from the Jewish Green Road cluster to the GESU area of the City where the conspirators live.

371. As one conspirator said outright in a letter, the conspirators did not want the GESU area to be "labeled as Jewish."

372. As Defendant Urban stated in an email, the conspirators were careful not to state the conspiratorial objective out in the open, and instead concealed their true intentions, because they knew that the conspiratorial objective was illegal.

373. The conspirators agreed that the Orthodox Jewish community could not expand if the Orthodox Jews are not permitted to pray in their homes in the City.

374. Accordingly, when it was discovered that Grand invited people to pray in his home with him on Shabbos and holidays, the conspirators devised a plan to prevent Grand from praying in his home, and to make Grand an example so that Jews throughout University Heights would not attempt to pray in their homes.

375. To achieve the illegal objective of preventing the Orthodox Jewish community from expanding west, the conspirators agreed to injure Grand by unlawfully preventing his attempt to pray in his

home, and by weaponizing the municipal authorities against him.

376. The conspirators put Grand in an impossible situation: he was served with a cease-and-desist order which criminalized Orthodox Jewish prayer in his home, and then they required that if he wanted to pray, he had to apply for a special use permit, which was inappropriate for the situation, which he did not qualify for or desire, and which the Defendants knew in advance that they would not grant under any circumstances. If Grand declined to apply for the SUP or applied and was subsequently denied, prayer would remain prohibited in his home because of the case-and-desist order, which is still in effect today, over two years later.

377. Even if the SUP was granted, which it would not have been under any circumstances, according to the UHCO section 1274, Grand would have to vacate his home, because UHCO 1274.02(f)(4) states that "no use permitted herein shall include sleeping or residential use accommodations on any part of the site."

378. There was a single plan to injure Grand that the alleged coconspirators shared in the general conspiratorial objective of preventing the Jewish community from expanding into the GESU neighborhood and to deprive Grand of his civil rights, and many overt acts were committed in furtherance of the conspiracy that deprived Grand of his civil rights.

379. The City, Brennan, and McConville committed many overt acts in furtherance of the conspiracy, issuing a cease-and-desist letter accusing Grand of converting his home into a synagogue when it was obviously known that Grand did no such thing. The City, Brennan, McConville, and Englebrecht weaponized the building department by issuing baseless violations against Grand. The violations were issued, among other reasons, to attempt to criminally prosecute Grand.

380. Brennan, McConville, and Scalise refused to enforce the City's ordinances against Grand's neighbor, thereby allowing the neighbor to maintain surveillance cameras pointed at Grand's property, which Brennan reviewed.

381. They also demanded that Grand remove a fabric barrier that Grand erected to block the cameras so that the illegal surveillance could continue.

382. Brennan also ordered police to surveil Grand's property.

383. Brennan also hired a private investigator in an unmarked vehicle to scare and surveil and intimidate Grand and other Orthodox Jews while they were walking to synagogue on the holiday of Rosh Hashanah.

384. The video surveillance and police surveillance and the private investigator were meant to intimidate and harass Grand in retaliation for attempting to pray in his home, and to intimidate

Orthodox Jews from visiting Grand's home, or to pray in their own homes.

385. Scalise acted in concert with Grand's neighbors to manufacture a pretext to threaten Grand with criminal prosecution to the point of potential incarceration to intimidate Grand and prevent him from praying in his home.

386. Scalise also advised her coconspirators on how to weaponize the municipal power to harass and intimidate Grand into abandoning his plans to pray in his home.

387. Fine, Siemborski, and Urban abused their positions on the Planning Commission to prevent Grand from praying in his home, and deprived Grand of due process by denying him a fair hearing.

388. Fine, Siemborski, Urban, McConville, and Brennan violated the Ohio Open Meetings Act when they held private secret meetings to deliberate about how to evade liability for illegal discrimination based on religion, among other things.

389. Cooney and Kluznik acted as liaisons between the Planning Commission and the neighbors and facilitated illegal *ex parte* communications between the Planning Commission and the neighbors during a quasi-judicial proceeding. This assisted the Planning Commission, Brennan, and McConville to create a pretext to illegally deny Grand's application.

390. Pursuant to 18 U.S.C. 1512(c)(2), it is illegal to corruptly influence or attempt to influence an official proceeding.

391. Brennan, McConville, Fine, Siemborski, Urban, Cooney, and Kluznik, all violated 18 U.S.C. 1512(c)(2) for the purpose of furthering the conspiracy against Grand and to deprive him of religious freedom, freedom of assembly, due process, and equal protection under the laws.

392. Brennan, McConville, Fine, Siemborski, and Urban violated Section 1512(c)(2) by taking steps to influence the outcome of the Planning Commission hearing so that they could reach the desired outcome of denying Grand a recommendation for a SUP, which would then influence the City Council's ultimate approval, and/or any appeal to the City Counsel, the BZA, and/or a court.

393. Cooney and Kluznik violated Section 1512(c)(2) by acting as a liaison and communicating *ex parte* with McConville, Brennan, and members of the Planning Commission to gin up community opposition which influenced the official proceeding as set forth above.

394. Additionally, Cooney commandeered the Planning Commission meeting without objection from Brennan or McConville, and prevented Grand from presenting his petitions which would have provided evidence of a larger body of support for Grand's application than presented by the residents in

opposition, that the Planning Commission repeatedly referenced.

395. Cooney and others obstructed the PC hearing on March 4 by preventing Grand from presenting his evidence on the record in order to preemptively obstruct any future official proceedings, including any appeals before the City Council, BZA, or a court.

396. Brennan expressly stated in one of his closed session deliberations with the Planning Commission that the reason he chose to run the Planning Commission hearing in a "quasi-judicial" format, pursuant to Ohio Revised Code 2506, was so that another body or court could not review the application de novo.

397. Accordingly, the conspirators made sure to prevent Grand from introducing certain evidence into the record so that the Grand would be barred from introducing the evidence on appeal.

398. Specifically, Cooney took over the planning commission meeting and interrupted Grand just before Grand was able to introduce his petitions into the record.

The impact of the Defendants' conduct and the City's land use regulations on Plaintiff.

399. The City's zoning scheme and the Defendants' conduct has rendered Plaintiffs' religious exercise effectively impracticable.

400. If the Plaintiff was permitted to pray in his home, it would affect interstate commerce by or through, among other things, providing a place to pray for visitors from other states; the purchase of goods and services related to the minyan; and the hosting of any religious leaders visiting the Plaintiff from out of state.

401. The actions of Defendants City, Brennan, McConville, Scalise, Engelbrecht, Fine, Urban, and Siemborski described above all took place under color of state law.

402. The harm to the Plaintiff caused by the City's laws and the Defendants' actions, which prevent him from praying in his home to accommodate his religious needs, is immediate and severe.

403. The City's laws and the Defendants' actions imminently threaten Plaintiff's free exercise of religion.

404. Plaintiff has also suffered significant financial damages as a result of the City's laws and the Defendants' conduct.

405. The Defendants, through their actions, have turned Plaintiff's neighbors against him and ginned up hostility towards Plaintiff such that Plaintiff fears for his safety and the safety of his wife and small children in their own home.

406. The Defendants through their actions have deprived Plaintiff and his family of what was once a

tranquil existence, and life in the neighborhood for Plaintiff and his family has become unbearable.

407. The Defendants' constant harassment and targeted application of the City's ordinances against Plaintiff has caused Plaintiff to spend money on otherwise unnecessary construction related costs.

408. For example, because of the Defendants' conduct, Grand is now required to demolish and rebuild his driveway, his fence, his walkway, his sidewalk, and his front yard.

409. Plaintiff was financially harmed by the City's refusal to issue a certificate of occupancy as it prevented Plaintiff from receiving a tax abatement and it makes Plaintiff's home unmarketable.

410. Since the filing of this lawsuit, Grand has decided to sell his property in University Heights and to move his family out of University Heights.

411. He listed his house for sale, but the marketability of the home has suffered, and the value of the home has substantially decreased due to Defendants' conduct.

412. The home was built in a manner that caters to Orthodox Jewish homebuyers, including amenities like a dual kitchen to accommodate a kosher lifestyle, two large dining rooms to accommodate dietary laws and a separate dining room for Shabbos and festivals, a handwashing station for ritual washing before meals, guest rooms to accommodate Shabbos guests, a private library and study for Torah study, and

bedrooms to accommodate large families which is a Biblical obligation observed by Orthodox Jewish families.

413. Because of the Defendants' conduct and the publicity brought to Grand and the Property because of the same, it is unreasonable to expect that any Orthodox Jewish person would express interest in purchasing the home.

414. In fact, no Orthodox Jewish person has expressed interest in the home to date due to all the negative attention.

415. Grand has spoken to members of the Orthodox Jewish community about the lack of interest and has discovered that the families that might have had interest in purchasing, and therefore moving to Grand's house, are concerned that moving there would result in them receiving the same negative treatment that Grand has received.

416. This shows the effectiveness of the conspiracy, as it has effectively intimidated Orthodox Jews from purchasing houses on the west side of University Heights near GESU and prevented the Orthodox Jewish community from expanding beyond the cluster around Green Road.

417. The issuance of baseless violations and the refusal to issue a certificate of occupancy has deprived Grand of the ability to apply for a home occupancy permit which would allow him to conduct business out of his home, which he intends to do as soon as the City issues a certificate of occupancy.

418. As a result, Grand had to rent space for his business and incur other expenses like insurance and internet and other expenses to maintain an office that he would not have incurred otherwise.

419. Also, the issuance of these baseless violations and the refusal to issue a certificate of occupancy has deprived Grand of the ability to apply for a special use permit and/or variances in conjunction with his application with ODJFS for a type A home childcare permit for 7-12 children, which Grand's wife has intended to do since before the initial cease-and-desist letter was sent in January of 2021.

420. The Defendants' conduct has deprived Grand of use of portions of his house that he would have used to pray, to have guests participate in religious meals and to stay for Shabbos.

421. The Defendants' conduct causes ongoing and continuous emotional trauma and distress to Plaintiff, Plaintiff's wife, and Plaintiff's children who all are scared of their neighbors.

422. Being targeted and harassed by the City, Brennan, City officials, and neighbors has caused Plaintiff and his wife emotional distress, anguish, stress, shame, humiliation, anger, and fear.

423. All of the Defendants' have caused damage to Plaintiff's social life; people are scared to come to Plaintiff's home for fear that they may be harassed by the City if they are known to associate with Plaintiff.

424. The Defendants' actions have harmed Plaintiff's religious exercise as it is considered a religious obligation to host guests on Shabbos and holidays, and because of the Defendants' action, guests are reluctant to come to Plaintiff's home.

425. The Defendants have also harmed Plaintiff's religious exercise because even if the City were to allow Plaintiff to pray in his home, at this point the City has made it so that people will be afraid of coming lest they'd be surveilled by the City and of being targeted by the City for being associated with Plaintiff.

426. Brennan also invaded Plaintiff's privacy by viewing the video footage from the invasive cameras set up by Grand's neighbor, causing Plaintiff and his family mental anguish, including feelings of shame, embarrassment, anger, humiliation, and fear.

427. The City and Brennan, McConville, and Scalise enabled the invasion of Plaintiff's privacy, causing Plaintiff and his family mental anguish, including feelings of shame, embarrassment, anger, humiliation, and fear.

428. Because of the invasion of privacy that the City allowed, Plaintiff incurred financial harm by erecting a barrier, and then incurred further harm because the City demanded that the invasion of privacy be allowed to continue and that Grand then deconstruct the barrier.

429. Grand also incurred damages in needless administrative and service fees to the City and other professionals because of the City's targeting.

430. Grand also incurred other damages because of his inability to pray in his home.

431. Grand is religiously obligated to tithe and is religiously obligated to nourish guests who visit his home. He was deprived of the opportunity to fulfil these religious obligations in the way that he would have preferred, namely, by sponsoring the communal Shabbos meals to his guests following the Shabbos prayers. Because of the City's conduct, Grand was and is forced to tithe by donating to others.

COUNT I

City of University Heights, Michael Dylan Brennan, Luke McConville, and Paul Siemborski

42 U.S.C. § 1983: United States Constitution, First Amendment, Free Exercise of Religion

432. The foregoing paragraphs are incorporated by reference as if set forth fully herein.

433. The Defendants have deprived and continue to deprive the Plaintiff of his right to free exercise of religion, as secured by the First Amendment to the United States Constitution and made applicable to the States by the Fourteenth Amendment, without using the least restrictive means of achieving a compelling governmental interest.

COUNT II

City of University Heights, Michael Dylan Brennan, Luke McConville, and Paul Siemborski

42 U.S.C. § 1983: United States Constitution, First Amendment, Freedom of Assembly

434. The foregoing paragraphs are incorporated by reference as if set forth fully herein.

435. The Defendants have deprived and continues to deprive the Plaintiff of his right to freedom of assembly, as secured by the First Amendment to the United States Constitution and made applicable to the States by the Fourteenth Amendment without using the least restrictive means of achieving a compelling governmental interest.

COUNT III

City of University Heights, Michael Dylan Brennan, Luke McConville, and Paul Siemborski

42 U.S.C. § 1983: **United States Constitution, First Amendment, Prior Restraint**

436. The foregoing paragraphs are incorporated by reference as if set forth fully herein.

437. The UHCO contains no articulated standards with respect to review by City Council of an application for a SUP for a house of worship in a

residential zone or for variance approval by the City Council or the Planning Commission, and, as such, are an unconstitutional prior restraint on Plaintiff's protected religious expression and exercise under the First Amendment. The lack of such standards unconstitutionally provides the City Council and the Planning Commission with unbridled discretion in its review of such applications for a house of worship.

438. Additionally, the Defendants engaged in numerous acts under the color of state law that prevented Grand from engaging in First Amendment protected activity.

COUNT IV

City of University Heights, Michael Dylan Brennan, Luke McConville,

42 U.S.C. § 1983: United States Constitution, Fourth Amendment, Unreasonable search

439. The foregoing paragraphs are incorporated by reference as if set forth fully herein.

440. The Defendants have deprived and continue to deprive Plaintiff of his right to protection against unreasonable searches of his house by the Fourth Amendment and made applicable to the States by the Fourteenth Amendment by engaging in unwarranted, indiscriminate, and intrusive video surveillance and surveillance by other means.

COUNT V

City of University Heights, Michael Dylan Brennan, Luke McConville, and Paul Siemborski

42 U.S.C. § 1983: United States Constitution, Fourteenth Amendment, Due Process of Law

441. The foregoing paragraphs are incorporated by reference as if set forth fully herein.

442. The Defendants have deprived and continue to deprive Plaintiff of his right to due process of the law through its unlawful application of the City ordinances against Plaintiff and its arbitrary and capricious application of laws, policies, and procedures.

COUNT VI

City of University Heights, Michael Dylan Brennan, Luke McConville, and Paul Siemborski

42 U.S.C. § 1983: United States Constitution, Fourteenth Amendment Equal Protection of the Law (Religious Discrimination)

443. The foregoing paragraphs are incorporated by reference as if set forth fully herein.

444. The Defendants have deprived and continue to deprive Plaintiff of his right to equal protection of the law through its discriminatory application of the City ordinances against Plaintiff, and its arbitrary

and capricious application of laws, policies, and procedures based on his religious practice.

COUNT VII

City of University Heights, Michael Dylan Brennan, Luke McConville, and Paul Siemborski

42 U.S.C. § 1983: United States Constitution, Fourteenth Amendment Equal Protection of the Law (Class of One)

445. The foregoing paragraphs are incorporated by reference as if set forth fully herein.

446. The Defendants have deprived and continue to deprive Plaintiff of his right to equal protection of the law by singling out Plaintiff for arbitrary, capricious and discriminatory application of the City ordinances against Plaintiff, and its arbitrary and capricious application of laws, policies, and procedures based on personal animus towards the Plaintiff.

COUNT VIII

City of University Heights, Michael Dylan Brennan, Luke McConville, and Paul Siemborski

RLUIPA 42 U.S.C. § 2000cc(a) "Substantial Burdens"

447. The foregoing paragraphs are incorporated by reference as if set forth fully herein.

448. The Defendants have violated RLUIPA's substantial burden provision by implementing land use regulations in a manner that imposes a substantial burden on Plaintiff's religious exercise and assembly, without furthering a compelling government interest.

COUNT IX

City of University Heights, Michael Dylan Brennan, Luke McConville, and Paul Siemborski

RLUIPA 42 U.S.C. § 2000cc(b)(1) "Equal Terms"

449. The foregoing paragraphs are incorporated by reference as if set forth fully herein.

450. The Defendants have violated RLUIPA's equal terms provision by imposing and implementing land use regulations in a manner that treats a religious assembly on less than equal terms with a nonreligious assembly.

COUNT X

City of University Heights, Michael Dylan Brennan, Luke McConville, and Paul Siemborski

RLUIPA 42 U.S.C. § 2000cc(b)(2) "non-discrimination"

451. The foregoing paragraphs are incorporated by reference as if set forth fully herein.

452. The Defendants have violated RLUIPA's non-discrimination provision by imposing and implementing land use regulations that discriminate against an assembly on the basis of religion or religious denomination.

COUNT XI

City of University Heights, Michael Dylan Brennan, Luke McConville, and Paul Siemborski

RLUIPA 42 U.S.C. § 2000cc(b)(3) "Unreasonable limitation"

453. The foregoing paragraphs are incorporated by reference as if set forth fully herein.

454. The Defendants have violated RLUIPA's unreasonable limitations provision by imposing and implementing land use regulations that totally exclude and/or unreasonably limit religious assemblies within the City.

COUNT XII

City of University Heights, Michael Dylan Brennan, Luke McConville, and Paul Siemborski

Ohio Constitution, Article I, Section 7

Right to Freedom from Direct or Indirect Government Encroachment on Religious Exercise

455. The foregoing paragraphs are incorporated by reference as if set forth fully herein.

456. The Defendants have violated and continue to violate Plaintiff's "natural and indefeasible right to worship Almighty God according to the dictates of [his] own conscience" by imposing and implementing land use regulations that directly and indirectly encroach upon his free exercise of religion.

COUNT XIII

City of University Heights, Michael Dylan Brennan, Luke McConville, and Paul Siemborski

Ohio Common Law Right to Worship

457. The foregoing paragraphs are incorporated by reference as if set forth fully herein.

458. The City has violated and continue to violate Plaintiff's right granted by Ohio common law to a place of worship "found in that part of the community where the people live" by imposing and implementing land use regulations that directly and indirectly encroach upon his free exercise of religion.

COUNT XIV

City of University Heights

Ohio Public Records Law, Ohio Code Section 149.43(C)(1)(b)

459. The foregoing paragraphs are incorporated by reference as if set forth fully herein.

460. The City violated the Ohio Public Records Law by failing to promptly prepare and make available for inspection public records that were requested by Plaintiff in accordance with the law.

COUNT XV

Michael Dylan Brennan

Ohio Common Law, Invasion of Privacy

461. The foregoing paragraphs are incorporated by reference as if set forth fully herein.

462. Brennan invaded Plaintiff's privacy by intentionally intruding upon the solitude and seclusion and the private affairs and concerns of Plaintiff by surveilling Plaintiff in a manner that would be highly offensive to a reasonable person.

COUNT XVI

City of University Heights, Michael Dylan Brennan

Freedom of Access to Clinic Entrances (FACE) Act, 18 U.S.C. § 248

463. The foregoing paragraphs are incorporated by reference as if set forth fully herein.

464. Defendants, by engaging in acts which they knew would naturally and probably intimidate Plaintiff from exercising his religion, placed Plaintiff in apprehension of bodily harm to him and his family, in violation of the FACE act.

COUNT XVII

Michael Dylan Brennan

Ohio Common Law, Intentional infliction of emotional distress

465. The foregoing paragraphs are incorporated by reference as if set forth fully herein.

466. Brennan by his extreme and outrageous conduct, intentionally and/or recklessly caused serious emotional distress to Plaintiff.

COUNT XVIII

Michael Dylan Brennan, Luke McConville, Paul Siemborski,

Civil Conspiracy Under 42 U.S.C. § 1983

467. The foregoing paragraphs are incorporated by reference as if set forth fully herein.

468. The Defendants shared in a general conspiratorial objective to deprive the Plaintiff of his constitutional rights and committed overt acts in furtherance of a single plan agreed upon by the

Defendants with the intention to cause injury to the Plaintiff, and in fact did cause injury to the Plaintiff.

COUNT XIX

Michael Dylan Brennan, Luke McConville, and Paul Siemborski

Ohio Common Law, Abuse of Process

469. The foregoing paragraphs are incorporated by reference as if set forth fully herein.

470. The Defendants perverted a legal proceeding to accomplish an ulterior purpose for which the legal proceeding was not designed that resulted in direct damage to the Plaintiff.

COUNT XX

Michael Dylan Brennan, Luke McConville,

Ohio Common Law, Malicious Prosecution

471. The foregoing paragraphs are incorporated by reference as if set forth fully herein.

472. The Defendants maliciously initiated and continued prosecution without probable cause against the Plaintiff and the prosecution was terminated in favor of the Plaintiff.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs respectfully request that this Court grant the following relief:

A. Preliminary and permanent orders permitting Plaintiff to pray with a minyan on Shabbos and Jewish holidays in his home without obtaining a SUP from the City.

B. An order declaring the City's conduct to be unlawful and unconstitutional.

C. An order enjoining the City from continuing to engage in conduct found to be unconstitutional.

D. An order enjoining the City from holding Plaintiff to a different more burdensome standard than other residents.

E. An order enjoining the City from unlawfully revoking permits already granted to Plaintiff.

F. An order declaring that the City unlawfully and unconstitutionally discriminated against Plaintiff based on his religion and based on personal animus by, *inter alia*, imposing unlawful violations, citations, and restrictions on Plaintiff.

G. An order declaring that all violations imposed unlawfully and unconstitutionally based on discrimination are null and void.

H. An order declaring that Plaintiff is entitled to his certificate of occupancy for the Property.

I. A writ of mandamus compelling the City to issue the Certificate of Occupancy and deliver

a copy of same to Plaintiff within 3 days of the order.

J. A writ of mandamus to compel the City to comply with Ohio Code 149.43(B) and produce the records requested by Plaintiff.

K. An award for statutory fees, court costs, and attorney's fees set forth in Ohio Code 149.43(C)(2).

L. An award of statutory fees pursuant to 18 U.S.C. § 248(c)(1)(B), for every instance that Brennan used fear and intimidation to prevent Plaintiff from exercising his religion.

M. A declaration that the City's land use ordinances, to the extent that they substantially burden, exclude, unreasonably regulate, and discriminate against the Plaintiff's land use, are void, invalid and unconstitutional on their face on the ground that they violate the Free Exercise Clause of the First Amendment to the United States Constitution, the Religious Land Use and Institutionalized Persons Act, the Free Exercise Clause of the Ohio Constitution, and Ohio Common Law;

N. A declaration that the City's land use ordinances, to the extent that they provide unbridled discretion to City decision makers when reviewing an application for a SUP or variances for a house of worship, and provide no reasonable time limits to obtain such

decision, are void, invalid and unconstitutional on their face on the ground that they violate the First Amendment to the United States Constitution as a prior restraint on religious expression and exercise.

O. Preliminary and permanent orders enjoining the City, its officers, employees, agents, successors and all others acting in concert with the City from applying their laws in a manner that violates the First, Fourth, Fifth, and/or Fourteenth Amendments to the United States Constitution, the Religious Land Use and Institutionalized Persons Act, the Free Exercise Clause of the Ohio Constitution, and Ohio Common Law, or undertaking any and all action in furtherance of these acts;

P. An award of compensatory damages against the City in favor of Plaintiff as the Court deems just for the loss of his rights under the First, Fourth, Fifth, and Fourteenth Amendments to the United States Constitution, RLUIPA, the Ohio State Constitution, and Ohio Statutory and/or Common Law incurred by the Plaintiffs and caused by the City's laws and actions;

Q. Awards of compensatory damages, emotional damages, and punitive damages against Defendants Brennan, McConville, Scalise, Englebrecht, Fine, Urban, Siemborski, Cooney, and Kluznik in favor of Plaintiff.

R. Awards against Defendants City, Brennan, McConville, Scalise, Englebrecht, Fine, Urban, Siemborski, Cooney, and Kluznik to the Plaintiff of full costs and attorneys' fees arising out of Defendants' actions and out of this litigation; and

S. Such other and further relief as this Court may deem just and appropriate.

DEMAND FOR JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby demands a trial by jury in this action on all issues so triable.

Dated: January 2, 2024

Respectfully submitted,

/s/ Jonathan Gross
Jonathan Stuart Gross
Bar ID MD-19121701
2833 Smith Ave.
Suite 331
Baltimore, MD 21208
(443) 813-0141
jonathansgross@gmail.com

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that on January 2, 2024, I electronically filed the foregoing with the Clerk of the

Court using the CM/ECF System, with consequent service on all parties that have responded.

/s/ *Jonathan Gross*

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

DANIEL GRAND,	)	
	)	
Plaintiff	)	
	)	
vs	)	Civil Action No.
	)	1:22cv1594
	)	Bridget Meehan Brennan
CITY OF UNIVERSITY HEIGHTS, OHIO, MICHAEL DYLAN BRENNAN, in his official and individual capacity, JEFFREY PORTER,	)	
	)	
Defendants	)	

* * *

DEPOSITION OF PAUL SIEMBORSKI

Tuesday, December 5, 2023
9:35 a.m. – 1:31 p.m.

* * *

[5]

PAUL SIEMBORSKI

being duly sworn, was examined and deposed as follows:

EXAMINATION

BY MR. QUAINTON:

Q Good morning, Mr. Siemborski. My name is Eden Quainton, and I represent Daniel Grand, the Plaintiff in this action.

We'll try to be as efficient possible, so I'm just going to jump right in.

One thing I'll just say just starting off, because we're going to pack a lot in, I may speak too quickly for you. Don't hesitate to raise your hand and say you're going too quickly or you don't understand something I said. I would rather get a clear answer to something that you did understand than a murky answer to something that you don't understand. Does that make sense?

A Yes.

Q Have you had any alcohol this morning?

A No.

Q Have you had any drugs or medication that would affect your ability to testify truthfully?

A No.

Q Where did you go to high school?

[6]

A Saint Ignatius High School.

Q Where is that?

A Cleveland, Ohio.

Q Okay. Did you live in Cleveland at that time?

A Yes.

Q Where do you live now?

A University Heights.

Q When did you move to University Heights?

A I've been in University Heights for approximately 30 years. So early '90s.

Q Where did you go after -- where did you go to college?

A Undergraduate, Ohio State University; graduate school, University of Texas, Arlington.

Q What degrees did you obtain at those universities?

A Bachelor's of science in architecture at Ohio State; and master of architecture, University of Texas Arlington.

Q Are you a full-time architect?

A I am.

Q At the same time, you're a member of the University Heights Planning Commission; is that right?

A I was.

[7]

Q Okay. Let's talk about that. When did you first go on to the Planning Commission?

A I don't know the year, but Mayor Infeld was in office.

Q I don't know the politics of University Heights. Would that have been five years ago? 10 years ago?

A Less than 10, more than five.

Q Okay. You said you're no longer on the Planning Commission?

A That's correct.

Q Are people voted onto the Planning Commission or appointed? How does that work?

A I believe they are appointed. Luke can verify that. I believe they are appointed by the mayor.

Q You're appointed for a specific term of office?

A That's correct.

Q Then your term expired; is that right?

A I served under Mayor Infeld, and then I served for a term under Mayor Brennan.

Q When that term expired, did you seek to have another term?

A I did not.

[8]

Q How did you like being on the Planning Commission?

A I enjoyed it.

Q What did you like about it?

A We have an interesting, diverse, engaged, educated community. Working with my fellow Planning Commissioners, as well as the community was exciting and worthwhile.

Q Thinking about some of your prior experience, before we get into the incident involving Mr. Grand, did you have any experience with a shul known as the Aleksander shul?

A Yes.

Q What was your involvement with planning around the Aleksander shul?

A I was on the Planning Commission. If I'm correct, was that Denciger? Was that the Aleksander shul?

MR. CLIMER: You need to answer of your own knowledge.

THE WITNESS: Pardon me?

MR. CLIMER: You need to answer of your own knowledge.

THE WITNESS: Sure.

[9]

A If this is the Denciger Aleksander shul, it's on the corner of a couple of streets in University Heights. It was brought to our attention there were some concerns and some violations. We weighed in on that.

BY MR. QUAINTON:

Q When you said you weighed in, how did you weigh in?

A As part of that, the Planning Commission, we were aware of various concerns, violations that, I think, folks were both living in the building and service was going on in the lower level in the basement.

There were grave concerns about a place of assembly not meeting code, only one means of egress in a wood structure, no proper fire escape, no sprinkler system, many code violations.

Q What did you think about the idea of having, I guess, a basement shul in that building? Were you in favor of it or opposed to it?

A If it doesn't meet code and doesn't meet life safety, then that's problematic.

Q If it does meet code?

A It did not meet code and it did not meet life safety.

[10]

Q No. I understand.

But just hypothetically, if the shul did meet code, do you have any objection to a shul in the basement of that building?

A It depends also on the zoning, how it was zoned. Zoning always comes into discussion.

Q Okay.

A It would depend on zoning.

Q We're probably going to be using this word a fair bit, and that's the word "shul." So I want to ask you: What do you understand by the word "shul"?

A Only what I've read and observed. It's a place of Jewish service, I believe, and prayer.

Q Are you aware that there are different types of shuls?

A No.

Q Have you ever heard the term "Shabbos shul"?

A Sure. Yes.

Q What do you understand by a Shabbos shul?

A Only what I know and I've read. It's a gathering of those of Jewish faith. I don't know if it is restricted to men or women.

Q Okay. Did you ask any of those questions when you were reviewing the application of the Aleksander [11] shul?

A I don't believe so.

Q Were you interested in what they thought a shul was?

A Was I interested in -- would you repeat the question?

Q What the applicants thought a shul was, was that something of interest to you as a member of the Planning Commission reviewing their application?

A Certainly.

Q So did you ask them what they intended by a shul?

A I don't believe so.

Q Was there a discussion on the Planning Commission of what the members of the -- the applicants for the Aleksander shul, what they intended by applying for a shul permission in their basement?

A I don't believe so.

Q So how did you know whether -- how did you know what to decide about if you didn't know -- maybe I'm misunderstanding --

MR. QUAINTON: Can you read back my question about the shul?

(Whereupon, the record was read back as [12] requested.)

THE WITNESS: What was the answer?

THE COURT REPORTER: "I don't believe so."

BY MR. QUAINTON:

Q So you were not aware of any discussion about what the applicants intended to do in the basement shul that they were applying for?

A We were aware of what the applicant intended. It was a place of assembly, gathering, regardless of

faith, and a place of assembly, gathering, and also where one is living is against code.

Q When you say "place of assembly," was that a term that they used?

A As an architect, it's a term I use. Code requires buildings are graded in certain use groups. When a use group of gathering, call it a theater, it's a place of assembly. It's the terminology I use.

Q Okay. Well, are you familiar with the New Testament?

A Yes.

Q So I think in the New Testament, there is a phrase that Jesus says that -- I'm paraphrasing -- if two people are gathered in my name, that's essentially a [13] gathering of the community. I'm paraphrasing. Do you recall roughly that portion of the New Testament?

A Yes.

Q So if two people were to gather in a basement in a house in University Heights and pray, would that be a place of assembly under the code?

A Under code, there is a certain number of people required for assembly that then sets certain restrictions and certain life safety requirements.

Q So your understanding is that the code has a numerical standard for what constitutes a place of assembly?

A Correct.

Q Do you happen to know what section of the code that would be?

A No.

Q Is your understanding that the code says that you can't have more than five people praying in your house?

A The code doesn't refer to praying. It refers to assembly, and it refers to numbers of occupants.

Q So you distinguish between assembling and praying?

A I don't distinguish. I know what the code [14] says. The code talks about restrictions relative to assembly.

Q Well, I'm trying to understand what you think "assembly" means. So two people are gathered in the name of Jesus to pray. Is that an assembly in your understanding?

MR. CLIMER: You need to answer of your own understanding.

A To be considered an assembly?

BY MR. QUAINTON:

Q So what about on Shabbos, on the Jewish Sabbath, if 15 people have lunch together, a Shabbos meal, they go to services at the local synagogue and they come back home and they have a meal, a Shabbos meal. So let's say 15 people come. During the Shabbos meal, they would say some prayers. It would largely be convivial, but it would have a religious connotation. Is that an assembly in your mind?

A Sure. People are assembled.

Q So if somebody in University Heights has 15 people over to watch the Super Bowl, is that an assembly?

A It could be considered an assembly. It could be considered a gathering.

[15]

Q Okay. So if 15 people came to watch the Super Bowl at your house, you would have to get an SUP for that?

A I would have to get a what?

Q A special use permit?

A No.

Q Why not?

A I'm not sure I'm qualified to answer that.

Q Well, I'm just trying to get your understanding because I'm trying -- because what we're talking

about here -- we're going to get to it -- is a situation where an individual wanted to have a certain number of people come to his house to pray and that caused some controversy. I'm just trying to get your understanding of what the rules are that you, as a member of the Planning Commission, would be applying.

With the Aleksander shul, with application for the Aleksander shul, I think your testimony was you felt that the building or the place where the shul would be located did not meet code; is that correct?

A That's correct.

Q That was relevant because you had determined that what was planned was an assembly?

MR. CLIMER: Objection.

[16]

Go ahead.

A Was there a question there?

BY MR. QUAINTON:

Q There was.

(Whereupon, the record was read back as requested.)

A In my professional opinion -- and I'll use a different example as a theater. A theater is a place of assembly that holds regular events. A music hall is a

place of assembly that holds regular events. So when it's a regular -- using that word "regular," a standing recurring scheduled events, that's, in my professional opinion, a place of assembly.

BY MR. QUAINTON:

Q So your professional opinion is it's the regularity of the gathering that makes a particular gathering an assembly that triggers concerns about code violations or zoning requirements and so forth; is that right?

A That's correct.

Q Okay. Do you like basketball?

A It's fine.

Q Let's just say that during basketball season, you have -- I guess it's the Cavaliers in Cleveland. So [17] you have some Cavalier fans. Every Thursday or whatever, on a regular basis, you tell your friends -- and fans can be a bit -- they could be rowdy. You say we're going to have a Cavs party at my house. Bring all your friends to the Cavs party at my house. It's a regular gathering. It goes throughout the season. The season is pretty long. Is that an assembly?

A Well, I haven't done that. I'm not interested in doing that.

Q Okay. I understand. I guess you're not a basketball fan. If somebody in the community wanted to do that, wanted to have a regular gathering of people on a regular basis and they anticipated that it

would be 10, 15 people who would gather there to cheer on the Cavs, would that be an assembly that would trigger your concerns about code and zoning?

A The assembly, it could be gathering. It could be inside. It could be outside. I don't know all the details.

Q That group of fans, would they need to apply for a special use permit in your opinion?

A No.

Q Why not?

A It's informal. It's not structured.

[18]

Q When you say it's informal, what do you mean by that?

A It's informal. That is not structured.

Q Well, my example -- just to go back to my example, it's going to be every Thursday during the basketball season. There is a group of diehards. There is a group of 12 people who love the Cavs. Maybe it's going to be more. Maybe they're going to bring some friends. But there is a core that's going to come. It's going to be 10 or 12 people every Thursday at your house -- at somebody's house to cheer on the Cavs. Is that an assembly?

A I call it a gathering.

Q But is it the kind of assembly -- is it the kind of gathering that would trigger the need of a special use permit?

A I believe so.

Q I think what you said what makes something an assembly in your mind -- your understanding of the code is the number of people who would be assembling?

A Number of people, type of use.

* * *

[34]

Q Do you recall what information you received prior to the -- what information you received from the police prior to the meeting on Mr. Grand's special use application?

A I don't believe any information was received prior. As always is the case, an envelope comes to the house. You open it up. There you go.

Q That's what I mean. So the envelope that you received -- let's step back. Do you recall receiving an envelope with information about an upcoming meeting for a special use permit application for Mr. Grand?

A Do I recall? I received an envelope. If you're asking me if I recall going to my mailbox, walking down my steps to get that, no.

Q No. I'm just asking if you recall receiving an envelope with information about the upcoming meeting about Mr. Grand's SUP application.

A I believe that's what happened. That's the only way I get the information.

Q Do you recall what the information was in that envelope?

A No. I'm sure there was an agenda. If there were attachments, I don't recall what they were.

[35]

Q You received that envelope -- did you say it was a week before the meeting approximately?

A I would say approximately.

Q Prior to receiving that envelope, had you had any discussions with any members of the community about Mr. Grand's proposal for an SUP?

A Not that I recall.

Q Do you recall whether you had any discussions with any members of the Planning Commission prior to receiving the envelope?

A Not that I recall.

Q So did you form a view about the merits of Mr. Grand's proposal before the meeting occurred?

A No.

Q So when you went into the meeting on -- the March meeting for Mr. Grand's special use permit application, did you go into that meeting with a completely open mind?

A Yes. Prior to every meeting, I drive by the property to familiarize myself with the location. So that is my sort of sense of due diligence.

Q Did you do that in this case?

A I'm sure I did, because I've done it for every case, everything we were presented with.

[36]

Q So you recalled driving by Mr. Grand's home prior to the meeting as part of your due diligence?

A Do I recall? Yes, I would say I did.

Q What was your impression of the house?

A Big white house in the middle of a neighborhood. I haven't driven down Miramar. It's not my normal course of travel. So I saw the house -- or the property. I saw the property.

Q Did the house, itself, create any positive or negative impressions for you?

A As an architect, it's incongruous with the neighborhood. Typically the neighborhoods are 60-foot lots, I believe, with a single family home on that lot. This was a larger lot. I assumed it had gone

through buildings and expansions and reviews and all of that, but it was different than the neighboring properties.

Q The fact that it was different, was that a negative in your mind?

A Negative, no. Change, yes. This was different. This is a change.

Q How did you feel about that change?

A I've seen lots of changes. I've seen properties consolidated. I've seen neighborhoods expand. I didn't know any -- I didn't have anything [37] else to judge it on, just that visually it was different than the neighboring properties and the character of the street.

Q So the difference of the house, did that raise any concerns for you?

A Most of the most homes on that street and perhaps all of them -- the parking is behind. I noticed the parking was not behind, if I recall. I don't know if the construction was complete. I somehow remember perhaps there being siding that was incomplete. I wondered if two houses had been constructed into one. I didn't know. So that's my view.

Q Sorry. What was the view?

A The view is -- I noticed that the parking was in front. Most of the houses, the parking is behind. The garage is behind the house. I believe I recalled the

house not being complete, the construction had some siding missing. Then I wondered if various structures had been combined into one.

Q Anything illegal about having your driveway in front of the house rather than in back of the house?

A Anything illegal? No.

Q Is there anything about having a driveway in the front of your house that is relevant to whether [38] you're having a religious assembly in your house?

A No.

Q That same question about whether the house is finished or unfinished, is that in any way relevant to whether you're having an assembly in your house?

A No.

Q So why did you focus on those details?

A You asked me what my observations are. As an architect, I'm trained esthetically to have such observations.

Q Did you feel esthetically that the house was esthetically unpleasing?

A Unpleasing, no.

Q Just different?

A Larger than the adjoining adjacent structures.

Q So before you got the information about the upcoming hearing for Mr. Grand, just to clarify, you had not spoken to anyone either in the community or on the Planning Commission about Mr. Grand?

A I don't recall, and I'm pretty sure not.

Q Okay. In between the time that you received information about the meeting and the meeting, itself, did you speak to anybody in the community about their views on Mr. Grand or his project?

[39]

A I believe I called Michael Fine. Michael is a friend. He served on the Planning Commission. He's Orthodox, and I always -- as a colleague and a friend, I wanted to know a little bit more about -- hey, what's this we're facing? So I believe it was Michael that I called, Michael Fine.

Q Okay. Do you recall what you spoke about?

A I do not.

Q But you recall speaking about Mr. Grand?

A We spoke about the information we were given, not about Mr. Grand. I don't know Mr. Grand. I didn't know Mr. Grand.

Q You spoke about the information relating to Mr. Grand's project?

A Correct.

Q What information do you recall receiving in the envelope that contained information about the upcoming meeting? What information was in that envelope?

A We covered that. I said that I believe it was an agenda, but I don't know what else was in there. I believe we eventually -- either during the meeting or prior to, there was a drawing that may have been presented at one time or another, call it a partial [40] floor plan. There was perhaps a list of -- at some point we saw a list of people for and against. I don't know when I saw that.

Q You don't recall if that list of people was in the packet of information you received in the manila envelope you described?

A I don't recall if it was in that packet.

MR. CLIMER: Can I have two minutes? I shouldn't have had that additional cup of coffee. I'll be right back.

(Whereupon, a short break was taken.)

BY MR. QUAINTON:

Q So I'm going to pull up on the screen what was previously marked as PB-7 in the deposition of Mayor Brennan. I'm just going to ask you to take a minute to look through the document. Can you read that okay, Mr. Siemborski?

A I'll come closer to the screen. I didn't finish reading it.

Q I'm sorry. I didn't realize that. There you go.

A Okay. Read it.

* * *

[44]

Q By "open mind," that means you were perfectly willing to grant the application or, I guess, vote in favor of the application or vote against. At that particular point, you didn't have any leaning voting for or voting against?

A That's correct.

Q Had anybody discussed with you prior to the meeting the concept of a quasi-judicial proceeding?

A I don't believe so.

Q Had anyone discussed with you a process whereby the applicants and people speaking in favor or against the proposal would be sworn in as witnesses?

A I don't believe so.

Q Had anyone discussed with you whether the applicant or any of the witnesses would be subject to cross-examination?

A I don't believe so.

Q Did anyone discuss with you whether the applicant would be allowed to enter any supplemental materials into the record?

A I don't believe so.

Q Did you learn in the course of this meeting that that it was, in fact, designed to be a [45] quasi-judicial proceeding?

A I did. It was even, as I recall, mentioned that this is how we would be doing it.

Q Had you ever been in a Planning Commission meeting that was conducted as a quasi-judicial proceeding before?

A I don't believe so.

Q Were you -- I'm trying to find the right adjective. Were you shocked by this quasi-judicial proceeding?

A I was surprised.

Q Did you think that a quasi-judicial proceeding was an appropriate mechanism --

MR. CLIMER: Object.

Go ahead.

BY MR. QUAINTON:

Q -- the application?

A I had not ever been through such a process, so I was -- it caught me off guard.

MR. GROSS: Eden, if I could just clarify, was the transcript PS-1?

MR. QUAINTON: No. The transcript is PB-17, I believe.

MR. GROSS: But I'm saying for the [46] purposes of this deposition, will that be --

MR. QUAINTON: No. I think I'm just going to keep the same -- I'm not going to renumber it for this deposition.

Let's go off the record for a second.

(Whereupon, a discussion was held off the record.)

MR. QUAINTON: We can go back on the record.

BY MR. QUAINTON:

Q I put the PB-17 back on the screen. This is the transcript of the March 4th meeting. Did anyone tell you, Mr. Siemborski, before the meeting -- excuse me -- how long the meeting would last?

A No.

Q Did you have any expectation going into the meeting as to how long you thought it was going to last?

A Prior meetings, we were, you know, let's say, done by 9:00. So I anticipated something in that timeframe.

Q So you said you were taken by surprise by the quasi-judicial nature of the proceeding. What did you expect going into the meeting?

* * *

[47]

Q Could you describe what the normal course of action would have?

A We were presented the information. Either the architect or the owner or whoever is asked to speak or present on behalf of the owner presented the information. Normally then there would be -- someplace along the lines the mayor would introduce normal recourse back and forth of questions and answers. Normally the mayor would ask the police chief, the fire chief, maybe the building department, the city engineer, you know, if there were concerns. We took those into account as well. That's normal course of action.

Q None of that happened, right?

A Pardon me?

Q None of that happened at this meeting, correct?

A It took a different course of action. I don't believe the -- it took a different course of action.

Q Right. So just to be clear, so normally I think you said you would have the police chief speak about security concerns, the fire department would speak about safety concerns, the architect would speak about [48] design concerns. Those would be the normal things that you would hear at this type of meeting, correct?

A That's the normal -- that's what I was accustomed to for Planning Commission meetings.

Q There was no presentation by the police chief, correct?

A Not that I recall.

Q There was no presentation by anybody from the fire department, correct?

A Not that I recall.

Q There was no presentation by any city architect, correct?

A The city architect doesn't ever -- there is not a city architect, so, no, that didn't happen.

Q Was there a city engineer? Did the city engineer speak?

A I don't believe so.

Q So did you think Mr. Grand should have been given the opportunity to have a normal procedure

with the type of testimony that you were accustomed to?

MR. CLIMER: Object.

Go ahead and answer.

A I would look to -- at the time our law director, who would -- we would set the proper process. [49] Whether or not I found it different, that's my own personal view.

BY MR. QUAINTON:

Q Well, did you form an opinion about the merits of Mr. Grand's application?

A By the end of the evening?

Q By the end of the evening, yes.

A Yes.

Q Was that based on any testimony of the police chief?

A They weren't involved.

Q Was it based on any testimony of the fire department?

A I believe we said they weren't involved.

Q Was it based on any testimony of the city engineer?

A I believe we said they weren't involved.

Q Was it based on any -- you're an architect, right?

A Correct.

Q Was it based on your view of any designs that you saw?

A Yes. As an architect, I have two responsibilities. I make sure the building is warm, [50] safe, and dry, and it stands up, 1.

No. 2, that we're doing the right thing for society and the community.

So that's how I am trained and educated. Yes, I will form an opinion based on my professional qualifications and my position on the Planning Commission.

Q Was there testimony about whether the building was warm, safe, and dry as you put it?

A Was there testimony? I don't recall.

Q Was there evidence submitted about whether the building was warm, safe, and dry in your words?

A I believe there was a plan. I believe we saw either a diagrammatic floor plan -- a partial or a full diagrammatic floor plan. I saw that.

Q Was that floor plan sufficient for you to make a determination as to whether the structure was warm, safe, and dry?

A It informed me.

Q What did it inform you?

A That there is a place of gathering and assembly. When I see a place of gathering and assembly with seats and tables, I'm concerned about safety, egress, zoning, places of assembly.

[51]

Q Did you ask any question about safety?

A I don't recall. I don't believe so. The client went first.

Q Do you recall any testimony by anyone that the room at which the prayers would occur was unsafe?

A I don't recall.

Q Do you recall any testimony by anyone that there was a security concern about the room being used for prayer -- supposed to be used for prayer?

A I have read this transcript, and I know there has been some concerns about access to the space, through a space to get to this space. So that had been talked about during the evening, per this transcript.

Q Is it your recollection that there was testimony opposing the project because of concerns about lack of access or egress to the room?

A I don't recall.

Q But is it fair that you thought you received sufficient information to conclude that the proposed room was not warm -- would not be warm, safe, and dry?

A I received limited information. Normally in a course of action, when we as architects receive limited information, meaning not complete information, we will not -- we will table, we will act, we will say revise [52] and resubmit. So I had received limited information from which I -- that I reviewed.

* * *

[79]

Q Right. Isn't that the same as Point 1? How's it different from Point 1?

A It talks about conversion. Point 1 in a sense is -- I'm describing a building from scratch. If you're designing a building from scratch and it is going to be a place of assembly, design it to follow the codes of a place of assembly.

Point 2 has to do with converting one building type to another.

Q This says the conversion of a residence cannot be -- do you know what that says, the last word there?

A It probably says "conversion," but the point is the conversion-you can't convert a residence into a place of assembly without significantly upgrading, by code, that structure. In many cases, it still won't work. You

won't be able to meet the exiting, the fire restrictions, the setbacks, whatever fire restriction, the setbacks that are required.

Q Okay. Then Point 3, what does that say?

A Sure. "All uses must have" -- or "must" -- "all uses must have a front on streets, streets such as" -- and I think, again, our code for special use lists [80] those streets, including Cedar, Green, Warrensville, Fairmount. Maybe there is another one or two.

Q Then 4 says?

A "No one shall include sleeping or residential." So you can't live in a place of assembly.

Q Right. Okay. So in your view, these four points -- are you saying, with these four points, that it would be virtually impossible for Mr. Grand to ever --

A There is some real challenges. There are also other -- re-reading through the transcript, there were other restrictions or criteria -- I'm sorry -- criteria that has to be met to grant a special use. There's concerns about lighting. There's concerns about parking. There's other concerns that we would need to take into consideration before granting a special use permit outside of the allowable special use permit zones.

Q Do you think that you had any -- I understand you are -- this is some of your area of expertise. Do you feel like you had any duty to convey these points to Mr. Grand so he could address them?

MR. CLIMER: Objection.

Go ahead.

[81]

A This process, as I read and learned, had been going on for a couple of years, that the building department had been involved in the project and that the idea of changing part or all of the residence to something other than was initially intended is what was brought to our attention. So I had assumed or others may have, before the Planning Commission got involved with our zoning code, that these items were likely in some manner or not perhaps conveyed or suggested.

BY MR. QUAINTON:

Q Sorry. You said that was -- you had discussions about these points?

A I didn't have discussions. I would assume that, as Mr. Grand was going through various submittals to the city for expanding his home, that these items may have been addressed if the use of it was changing. It's in the zoning code.

Q I think you said that you believe that Mr. Grand had a project that was ongoing for several years?

A I believe his house has been -- I don't know when he bought it, but I believe there were additions over the years, correct? Well, I'll just say I believe there

were additions over the years and that was always brought to the city, I would assume.

* * *

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

- - - -

DANIEL GRAND,	)	
Plaintiff,	)	
-V-	)	CASE NO. 1:22CV01594
CITY OF UNIVERSITY	)	JUDGE BRIDGET
HEIGHTS, OHIO, et al.,	)	MEEHAN BRENNAN
Defendants.	)	

- - - -

The deposition of RAKHEL DAVIDOFF, a witness herein, being called by the Defendants as if upon cross-examination under the statute, and taken before Megan A. Pisciotta, a Notary Public within and for the State of Ohio, pursuant to the agreement of counsel, on Wednesday, December 6th, 2023, at 10:00 a.m., at the Law Offices of Mazanec Raskin & Ryder, 100 Franklin's Row, 34305 Solon Road, City of Solon, County of Cuyahoga, and the State of Ohio.

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* * *

[34]

Q. And I think at the time you discontinued your speech therapy activities you had four students, or patients?

A. Three. I was seeing them in their homes or like in their schools, they weren't coming to my house. And then, I got to a point where I was like, you know, I have my kid's playroom set up, and I could see them in the playroom, and have students to the come to my house.

Q. All right. Have you handled any of the efforts to gain an occupancy permit for your house?

A. No.

Q. Have you been involved at all in that?

[35]

A. No.

Q. Any knowledge that you had concerning that would come to you through your husband?

A. Yeah.

Q. Do you and your husband have any present plans to relocate from University Heights?

A. Not at the present.

Q. Okay. Do you have any other insight into any other damages that you and your family may have incurred as a result of the matters at issue in this case?

A. I think we went over like my husband's financial losses and my financial losses, but also in terms of emotional damages, like since this has started, and I

know it's probably in the paperwork, but I've told my husband like I'm afraid to leave the house. I feel like you have eyes on you. You walk out of the house and people are staring at you, oh, those are the Grands. I would really have to muster up the courage to get out of the house.

If I had to get into the car and go shopping, that's easy enough, but then I had cameras on me because I always felt weird having my back to the cameras because I'd have to bend into the car, and that was embarrassing a little bit having my back to the camera. But then, like going for a walk when I wasn't taking the [36] car was like I had to pass by neighbors who didn't like us. It was hard for me. That was very hard for me to go out.

And then, you know, I would tell the kids -- I don't remember what I would tell the kids, but I would be like, let's just walk by this block really fast, let's just walk, and don't look, or talk to anybody, and they'd ask why. I would say they don't like us here, they're not nice, and they specifically ask why doesn't Jeff like us? Well, he's not happy with us. He doesn't like that we did construction. I would say something. I didn't want to say anything personal against my kids.

Q. So Jeff being Mr. Porter?

A. Yeah.

Q. All right. Have you engaged in any conversations with Mr., or Ms. Porter as to why they were unhappy with the Grand family?

A. I mean, they would say like you're shaking our house because of the construction. We're not doing anything that's illegal. We're doing construction that's going to take time. He was just upset that we were doing construction.

Q. Okay. Anything else that they expressed to as to why they were unhappy with the Grand family?

A. No. It just seemed like one day they were happy [37] and nice, and I was borrowing their hose, and they were really sweet, and then, the next day they had cameras up and coming over and yelling at us. He would come to yell at me, he would come to yell at my husband. I would be in the yard and he would start taking pictures. Like what are you taking pictures of? Me and my kids are outside.

Q. So if I'm understanding you correctly, when you moved in things seemed to be okay with the Porters until some point, and then, the worm turned, so to speak?

A. Yeah.

Q. And that would have been about the time that the construction was taking place in your house?

A. We started construction a few months after moving in. He was fine in the beginning, too. I don't remember when it was, but it was just suddenly like he started yelling at Daniel and myself at some point.

Q. Okay. And that was prior to the application for the special use permit in this case?

A. Yes. I think so. I guess so.

Q. Okay.

A. You know what? I don't know exactly because it's all such mush in my head. It could have been at the same time. It was so sudden.

* * *

From: Michael Brennan <MDB@universityheights.com>
Sent time: 03/23/2021 05:58:47 PM
To: Daniel J. Grand <danieljoshua@me.com>; Kelly Thomas <kthomas@universityheights.com>; John Rach <jrach@universityheights.com>
Cc: Luke McConville <mcconville@nicola.com>
Subject: RE: I am withdrawing my application

This message was sent from the City of University Heights.

Acknowledged The Planning Commission will convene at 7pm for the special meeting as noticed, and state for the record that you have withdrawn your application for a special use permit.

Michael Dylan Brennan | Mayor

From: Daniel J. Grand <danieljoshua@me.com>
Sent: Tuesday, March 23, 2021 5:50 PM
To: Michael Brennan <MDB@universityheights.com>; Kelly Thomas <kthomas@universityheights.com>; John Rach <jrach@universityheights.com>
Subject: I am withdrawing my application

Mayor Brennan and Planning Commission.

Please be advised that I am withdrawing my application for a special use permit. I do not wish to operate a house of worship as is defined under the zoning ordinance in the privacy of my home.

Mr. Daniel J. Grand

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

DANIEL GRAND,	)	
Plaintiff,	)	
vs.	)	Case No. 1:22-cv-01594
CITY OF UNIVERSITY HEIGHTS, OHIO, ET AL.,	)	
Defendants.	)	

- - - - -

Transcript of the deposition of DANIEL GRAND, the Plaintiff herein, called by the Defendants as if upon examination pursuant to the Federal Rules of Civil Procedure, taken before Rebecca L. Fumich, Registered Professional Reporter, Notary Public in and for the State of Ohio, held at Mazanec, Raskin & Ryder, 100 Franklin's Row, 34305 Solon Road, Solon, Ohio 44139, Thursday, November 2, 2023, commencing at 10:10 a.m.

* * *

[51]

Q None taken.

You have throughout your time in University Heights been able to attend daily prayers with minyans.

A In the local synagogues during the week and stuff like that.

Q Well --

[52]

A We have to be clear because it's totally different worlds.

Q I understand.

A I do too. Shabbos and weekday services are different.

Q Yes. I understand.

A Which are you talking about?

Q Have you been able to attend weekday services throughout your time in University Heights?

A Yes.

Q All right. And you've been able to fulfill your obligations to pray three times a day?

A During the week?

Q Yes.

A Yes, I have.

Q And you've been able to attend Shabbos services?

A Sometimes, yes.

Q All right. Is there anything that has prevented you from attending Shabbos services?

A Yes.

Q Tell me about that.

A Cleveland has severe weather patterns that make long distances very difficult to do. And it must be known that an Orthodox Sabbath-observing [53] Jew has a multitude of restrictions for the Sabbath that prevent them from behaving in a colloquial seemingly normal type of run-of-the-mill way for the average person.

You know, for example, I can't carry an umbrella. Orthodox Jews are not allowed to create what we call a tent of any kind, and by opening an umbrella, I would be violating a biblical prohibition of making a tent.

Another issue would be carrying from domain to domain. There are biblical prohibitions that you're not allowed to carry.

So I couldn't even travel with a book if I wanted to, a prayer book or whatever. And I hold by the distinction of the Sephardic Jewry that do not hold by an eruv. Sephardic Jewry is predominantly -- the roots are from Spain in 1492 and that line, as opposed to Ashkenazic, which is more the European descent Jewry, et cetera, and the ways that they follow the Jewish law are, you know, similar, but maybe have little differences amongst how they go about certain practices.

As a Sepharidic Jew, I wouldn't carry, but Ashkenazic Jews might carry. Doesn't matter. For

me, in my observation, observing my faith, I [54] can't. So weather.

Another is proximity. Proximity is distance. I think the closest place that I have for purposes of Sabbath goes -- meaning I have to walk. In a car it's nothing. It's two minutes. In the weekday it's like a cinch. I don't need any assistance praying anywhere on the weekdays in University Heights because there's a robust offering of synagogues that you can reach by car in two or three minutes. No big deal.

But on the Sabbath, on the other hand, it's quite different because I think the closest synagogue to my house is .7 miles. Now, that might not sound like much, but here's the thing, you pray three times a day, on the Sabbath you pray four times, but you have to go back and forth in the evening on a Friday, you've got to go back and forth on the morning of the Saturday, the Shabbos daytime, and you have to go back and forth in the afternoon, stay until the evening, and then walk back, you know, at nighttime. So you have three round trips.

And sometimes you can even have more because there are certain meals that you eat that you have to have like a Seudah Shelishit. Seudah [55] Shelishit is the third meal, and then -- the third of the four festive meals that are had on the Sabbath, and sometimes I've got to go back home to have Seudah Shelishit with my family. So I can actually be making 4.7 round trips, which is a mile, four, so a mile, four times four in a 24-hour period. That's a marathon runner, with all due respect, on a weekly basis ad infinitum.

And that's not always easy when it's snowing, and Cleveland's known for massive snow, lake effect, lots of rain. Little kids. I have a very diluted opportunity there not to be able to practice by bringing my family. So it's very hard for me.

Q And was this part of your motivation, as I understand it, in wanting to form a prayer group or it's been referred to as a shul or a prayer group in your home?

A I'm not so -- what is motivating me what? I don't know what you mean. I'm sorry. Can you rephrase that?

Q There came a point in time when you wished to form a shul or a prayer group, depending on how you want to phrase it, in your home, correct?

A I don't know. I think that I bought this [56] house by accident. The story of how I got to my house on Miramar is not like it's portrayed, and it's not like your history will speak to you. Realities are never asked and I'll divulge they are simply to hear.

I lived on Silsby. I was very close to the synagogues for Shabbos. I can walked easily. That's why I bought my house.

Q I'll be happy to get to that issue.

A I think it's important to go there.

Q I want to know how it is you came to go to Miramar.

A It's important to go there first.

Q If I understand it correctly, part of your motivation in wanting to form a shul, as you had put in your initial application, or --

A I didn't put that in my initial application.

Q Well, in some of the materials that you provided.

THE WITNESS: Can you have an objection to that?

Q We will get to that. All right.

As I understand it, you wanted to form a prayer group or a minyan or a shul in your home on Miramar, correct?

[57]

MR. GROSS: Objection as to form of the question.

You may answer.

A Not always.

Q But there came a time that you wanted to do that.

A The idea was brought to me by someone, and I thought maybe it was a nice thing to try, so yes.

Q All right. And that was in order to lighten the burden of traveling back and forth to the synagogue on the Sabbath.

A Solely?

Q Well, was that one of the motivating factors.

A I think it was more important that my kids could be with me when I prayed, and that's something that I can't do if I have to walk so many miles.

Q Okay. Because it was difficult for them to walk that distance.

A They're little, yeah.

Q Okay.

A But I would like to say when I spoke in my email to my small group of friends that lived within a block or two of my house -- the only people that would really want to participate, [58] right? Because it doesn't make sense to send an invitation to people in Nebraska. They're not going to fly to my house for Shabbos. You want people who can walk a block or two. I don't want to walk three blocks you're seeing. So, of course, people don't want to walk three blocks to me either. So it's a one- or two-block radius we're talking of people that I thought might be interested, and I was wrong. It wasn't --

Q So I want to back up. Are there other prayer groups or minyans that are closer to your house than the synagogue that you would walk to on the Sabbath?

A Not to my knowledge. The synagogues are the only prayer groups that there are in this town as far

as I know. That may not be the case, but I'm not aware of them. So I don't know. To speak about something I don't know about, I can't do.

Q You've never researched that or looked for another minyan?

A Not really.

Q Okay.

A No.

* * *

[84]

Q I'm going to hand you what's been marked Defendant's Exhibit B, as in boy. I'm going to represent to you that that is the first set of requests for admissions that you answered in this case. I'm going to ask you to turn to Exhibit A to that document, which is about six or seven pages back.

Can you identify that for us?

A This looks like the body of an email that I sent to a close group of friends --

[85]

Q Okay.

A -- on -- sometime in, I think, January.

Q And in that email you're inviting this group to -- I'm sorry if I'm mispronouncing -- shomaya tefilah beis hakeneset at your house.

A Shomaya tefilah beis hakeneset.

Q Can you tell us what that means?

A Shomaya Tefilah is a portion of the Jewish liturgy inside of a prayer, which is called the Shemoneh Esrei, which means the 18 benedictions, the 18 blessings prayer. One of the 18 blessings is that God should be someone who hears our prayers. And in this tense, Shomaya Tefilah means the one who hears. Shomaya, like shema is to listen, like Shomaya is the one who is listening, referring to God Almighty. Tefilah prayer. Shomaya Tefilah means the one who hears prayer; meaning God hears our prayers. That's how I think it would be. God hears our prayers. That's what it means.

Q Okay.

A Beis hakeneset, beis means house.

Q And how about hakeneset?

A Hakeneset. Well, hakeneset is the gathering. Meaning like, you know, the Israeli politics, we [86] have congress; they have hakeneset. So it has a colloquial term to it. What you would call a beis hakeneset, I mean, it's just a place, not necessarily formal or informal, but a place where you can pray.

So Shomaya Tefilah, a place where God hears your prayer. That's what it means.

Q And that is intended as a name for the gathering, correct?

A It's a cutesy name, but it's not a serious name, no.

Q You referred to Rabbi Rosskam. And who's he?

A There are lots of rabbis. I'm a rabbi. Jonathan's a rabbi.

Q I understand that.

A Rabbi Rosskam is just his name, but he's not like the only rabbi in town. Rabbi Rosskam, he's a gentleman from the community. He had just moved there at this time period, like he had been there two weeks maybe. And like I have maintained all along, but nobody ever asked me, I had somebody approach me from the community and said that Rabbi Rosskam is new to town and if I would be interested maybe in having a prayer group in my house.

[87]

And I said I hadn't really ever thought about it, but let me give it some thought. I did and I met with him. He was a gentleman, very nice. And I said, let's see, maybe we can do it. It would make life easier a little bit.

Q Who raised the idea of opening a prayer group at your house?

A You know, it's a guy from the neighborhood, but I don't really know his name so well, to be honest. I recognize him by face because you see a lot of people like 100 times in a week when you see them at the prayer place.

He was like, "Did you see Rosskam? Hey, what's going on?"

So he's somebody I can see and recognize, but I don't know what his name exactly is, to be honest right now.

Q He lives in your neighborhood?

A He lives in University Heights probably, yeah. Somewhere.

Q You said a guy from the neighborhood.

A Yeah.

Q That implies somewhere --

A No. Neighborhood involves South Euclid. It involves Beachwood. It involves -- the Jewish [88] neighborhood is like a little enclave that encapsulates itself in a nebulous which is in the outskirts of three or four towns within three blocks of each other. So that's what I thought the definition implied.

Q All right. You don't know who the guy is that raised the idea, but it was a couple weeks before you sent this out; is that correct?

A I don't recall who the guy is right now. I didn't say I don't know who he is. I can recognize his face if you put him in a lineup with 10 people. I don't remember his name is really the truth right now. I cannot tell you that right now. I don't know.

Q Did you ever see this person in your travels around town?

A Not every day. Not every week. Maybe once every couple of months I might bump into him at a local synagogue or something like that.

Q Do you have any means of recalling that person's name or finding that --

A I feel like I could find out who he was if I were to make an effort to search him out, yeah.

Q I'm going to ask you to take a look in your records, and if you find that name, provide it to [89] your attorneys.

At the same time you met -- at some point you met Rabbi Rosskam who was new to town.

A Yes, he was.

Q Are you still in contact with him?

A Not after really like -- you know, I might see him once every couple of months also at a passing minyan, but as far as like maintaining any kind of relationship with him -- first of all, I never really had much of a

relationship with him. Maintaining one, really no, not really; colloquial, nonchalant, you know.

Q Do you know where he lives?

A I do think I know where he moved to when he first moved here. I think he lives on Claver. I'm not going to tell you that I know that for a fact, but I believe that. But I'm sure a simple research of, you know, the GIS system, Cuyahoga MyPlace, or something you can find Rosskam. I think he's there somewhere.

Q I'm going to ask you if you've got any information concerning his whereabouts to please produce that to your attorney.

Do you know Rabbi Rosskam's first name?

A No. I think it's maybe -- I don't know. I [90] don't want to say. I don't know. Maybe Haskel. I don't know if I'm right.

Q We can agree, can we not, that in the second paragraph you introduce him as "our Rabbi, Rabbi Rosskam"; is that accurate?

A Yeah.

Q All right.

A Meaning me and my family. The sentence before that says the Daniel J. Grand residence. That's my house. Yeah.

Q And was he, in fact, your family's rabbi at the time?

A No. Never. Rabbis from my age group of people -- I couldn't have a young man be a rabbi of mine. A rabbi needs to have superior knowledge. I would go to somebody knowledgeable, like an older person in their '60s, '70s, or '80s.

* * *

[104]

Q Okay. How did you come to contact the mayor?

A He left me a voicemail.

Q All right. What did he say in the voicemail?

A It's a matter of major importance, some urgency, please call me back. Something to that effect.

Q All right. And did you do so?

A When I got home later that day, yeah. I didn't receive it right away.

Q And did you reach the mayor?

A I called and he picked up.

Q Okay. What happened?

A We spoke.

Q I want to know what took place in that conversation.

A We had a conversation about this matter.

Q What did he say?

A I don't remember everything he said right now. It was about a 10-minute conversation.

Q As best you can recall, I'd like to know what the mayor said to you.

A I can only paraphrase. I really can't speak for him. I didn't record it. I don't have a transcript. It would be off my memory.

Q Nobody is asking you for a verbatim rendition [105] of what the mayor said, but I do want to know your recollection of what he said.

A I can highlight some things that stand out.

Q Okay.

A One thing he said was that you need a special use permit if you want to pray in your house.

Q Okay.

A Another thing he said, or perhaps alluded to in the sense that he might have said it and not completely said that outright, but in a way he said that, which was if you are to have 10 men in your home for the purpose of praying without a special use permit, you will be in violation of this cease-and-

desist order and the city will use all of its means and powers necessary even as far as criminally indicting you for violating a cease-and-desist order. That's something else he said.

Q Okay. Anything else he said?

A I had asked him if 10 Jews in a room makes a synagogue in his mind, and he says, "Well, yes, it does."

Q Okay.

A And he said that you should go and apply for this permit and have a hearing on it. And I [106] thought about it. I just listened to what he had to say and …

Q Did you say anything else to the mayor aside from the statement or the question asking if 10 Jews in the room makes a synagogue?

A I apologize. People are talking in the other room and your chair was moving and I didn't really hear you. Could you say the question again? I didn't hear you very well.

Q I'm sorry.

Did you say anything else to the mayor that you can recall other than asking if 10 Jews in the room constitutes a synagogue?

A I think I spoke with him and said things like I'm not doing what you think I'm trying to do. This is like me having people come and sit at my dining room

table and eat dinner. Does that make me a restaurant? If I have 10 people come to my movie room, does that make me an illicit theater?

It just -- it sounded off, and it still does. It seems very unfair. Always did. Still does. And felt like I was being singled out and being told, you know, you can't be Jewish here.

Q Did you explain that to him?

A Yeah. That's what I talked about with him.

[107]

Q Did he respond to that, as to whether you were being singled out?

A He assured me about the process for the special use permit and to have a meeting -- a hearing, rather, a public hearing. I didn't know what he was talking about. I never applied for that type of special use permit before.

Q Do you know the city's history in acting on special use permits for religious assemblies?

A I don't know. Other than what was shown in something that you guys stated. Besides that, I have no concept.

Q Anything else in this phone call with the mayor that you can recall?

A No. It's all just the gist of it. It was sort of like polite and standoffish and didn't really feel like he wanted to help me. It seemed like he wanted to see me fail.

Q What makes you say that?

A When someone basically says to you, you know, yeah, 10 Jews in your room makes a synagogue and you need a permit, and if you don't have one, then I'm going to put you in jail, that kind of makes you feel like that.

Q Okay.

[108]

A And we've asked for this cease-and-desist order to be removed forever, and it's never been removed. So he's intentionally holding that on top of my head as we speak willfully, which I don't think is fair either. Very unfair treatment.

Q What leads you to conclude that the mayor is holding a cease-and-desist order over your head?

A He ordered it and it still stands today. Meeting and discussions with counsel asking for it to be lifted and other opposition counsel said, no, it's still active. So it makes me feel like it's still active.

Q I'm sorry. I missed the first part. You said there was discussions with counsel about lifting it?

A If it was still active or not.

Q Okay. When did that occur?

A I don't remember exactly when, but not very long ago.

Q Okay. And when you say "counsel," you're saying legal counsel -- correct? -- as opposed to city council?

A I think your law firm said that it's still active --

[109]

Q Okay.

A -- today as far as I'm concerned.

Q And was that --

A That's all I know.

* * *

[136]

Q Did you take any further steps to pursue a special use permit?

A At that moment -- that moment of that email, no, I hadn't.

Q No. I mean after that.

A It's a little murky, the question. It's not your fault. The answer I should say. It's a little murky. Not exactly sure.

Q I don't want to hold up your bathroom break, but can you give us the capsulated version?

MR. QUAINTON: I'm going to object to ask the witness to answer that when he's clearly made a statement he needs a bathroom break. Why don't you just let him [137] take the bathroom break before he --

MR. KELLEY: It's a pretty standard procedure to answer a question before we take the break.

A Jewish laws says if you have to use the bathroom it's forbidden to wait a millisecond. It's a detestable nature.

Q Go ahead and go.

A That's what it says in the Bible. Thank you.

(Recess had.)

A I think the answer to your question is like this: At that moment I didn't feel like the permit process I was going through and enduring was fair at all. I wanted to reserve myself the right to maybe, maybe not, potentially attempt at a later time to file for a special use permit if that's what was necessary. Because I clearly couldn't get it through to this group of people running the planning commission and the city administrative personnel at that time that you want me to provide you with documentation to supplement this meeting that we had, you're giving me less than the normal amount of time, which is one month, you're giving me two weeks [138] right in the middle

of a Jewish holiday -- that's not suspect, right? -- and you want me to produce these things by myself, but you don't even tell me what you really want? I had to ask you for the minutes. Then you gave it to me. Then you told me you won't be able to submit anything else -- Mayor Brennan says in an email you won't be able to submit anything.

So what the hell's going on here? On one hand you're telling me you want all these other documents, then you've got Mayor Brennan saying you're not going to be able to submit anything else that you want.

So, to be honest with you, I couldn't say that I was ruling it out forever, but at that time I ruled out having the special use permit and withdrew at that time. So anything after that, I'm -- you never know. I don't know. I don't have a good answer for you.

Q So the answer is you haven't to date?

A Not sure. I don't really have a good answer for you.

Q Okay.

A If the process was more fair, maybe I would have never withdrawn. Maybe that's what I'm [139] trying to say.

Q Have you continued to hold private prayer gathering at your house?

MR. QUAINTON: I'm going to object to the foundation of that question.

A Me too.

Q I'm just asking you, have you continued to hold private prayer gatherings at your house?

A "Continued" is just an incorrect word of it.

MR. QUAINTON: Objection.

BY MR. CLIMER:

Q Have you since the end of the special use permit hearing continued -- held private prayer group meetings at your house?

A One time I had a large Shabbos gathering, matter of factly, and at it there was enough men there and their families and wives, et cetera, for dinner purposes to have a minyan. We had enough people to make a minyan. So, yeah, one time from the time when I withdrew the application until today, one time I had a prayer group.

No. One time I had a large Shabbos gathering that resulted in me having a minyan in my other [140] room, actually. It wasn't even in the orange room that you guys -- that you think of when you think of the room that I -- it was actually in my other dining room. So one time I had a prayer gathering. I'm just going to say minyan. Just to make it easy for us, minyan means 10 people in the room that prayed anywhere in world -- any room in the world except for a bathroom.

So 10 -- 10 men in a dining room that happened one time. So I had a minyan in my house one time -- one time -- since the application until today. One time.

Q And nobody indicated to you that that was a problem, correct?

A Nobody indicated that to me? Who's nobody?

Q Did anybody indicate to you that that was illegal, that you could not have that spontaneous prayer gathering in your house?

A Yeah. It was under the color of night essentially. I didn't even know it was going to happen. It wasn't planned to have a minyan. If I knew I was trying to have a minyan with the city on my back, with the surveillance state that I live in, and all the other stuff that I had going on at that time, with cameras being pointed [141] at my house, police officers being hired by the mayor to follow along where I'm going and to surveil me, yes, I absolutely would have thought that.

But it happened to be that since they came to my house for a dinner, I didn't think anything of it. They're like, oh, wait a minute, there's 10 of us, let's go in the room and pray. We did that.

So the answer to your question is absolutely, under the color of night. I would have been petrified to actually have a bona fide prayer gathering in my house after what had gone on. Absolutely.

Q If you take a look --

A I was very threatened by that meeting.

Q If you take a look at --

A I felt very scared after that meeting, actually, for the welfare of my being and my family.

Q Are you finished?

A I was very intimidated at that meeting. I'm just answering your question.

Q Can you take a look at Exhibit B?

A Did you give B to me before?

[142]

Q Yeah. That's the responses to the requests for admission.

A I have it here. I have the first page of B.

Q If you go to request 8 --

A Number 8.

Q -- and that is -- the question is admit that you have conducted private prayer gatherings with friends in your home after the March 4th, 2021, University Heights planning commission hearing, and your answer is admit.

A Yeah. But the only thing I say to that is the "S" to me is superfluous and de minimus. The prior prayer gathering. You could have put the S in parentheses,

which would have been probably more accurate and descriptive, and I would have still answered in the admit form because I answered admit to this question. But I'm just letting you know that as a parenthetical that S should really be prayer gathering. I didn't want to lie. It was pluralized by you, but it should have more appropriately wrapped in a --

* * *

[179]

Q Do you have any knowledge as to where he got it from?

A Yeah.

Q Where?

A From the opposition, which is represented by a number of people, namely Mr. Cooney; Jack Kluznik; Vivienne Porter; Hodson, my neighbor; McConville.

Q Did you see those communications?

A They exist, don't they?

Q I don't know. My question is to you.

A Yeah.

Q All right.

A They're in the record. You saw them.

Q Did you see the mayor responding to those communications?

A I'm not sure what he sent me because I never had my FOIA request fully answered ever. There's probably a lot of stuff that slipped through the cracks that was never sent to me yet.

Q You say in paragraph 69, "Upon information and belief, Brennan arranged for residents who he knew opposed Plaintiff's application to be notified of the hearing."

Do you have any firsthand knowledge of that?

[180]

A Pardon my ignorance, but there were Facebook posts that he put out there that told people about me and my address and the special use hearing -- the special use meeting that was going to be going on. Who does that? He doesn't do that for anybody else's public hearings on his Facebook feed. That's him blowing it up in the neighborhood.

What happens if I send a message to you and you're the mayor of the city, and then you send it as the mayor back out to the entire community, they all see it because it's the mayor. It's important. If little Danny Grand writes a message, it doesn't go very far, as we can see. But if mayor does it, it goes all over the world.

Q You indicate in paragraph 70 that Mayor Brennan arranged that certain residents that lived

near you that Brennan thought would be supportive did not receive notification of the hearing. What evidence do you have of that?

A The hearings that you have in your subject matter, your FOIA requests, show that two of the residents that are on the block did not receive them, and they're on my block, and people on other blocks did receive them, which is curious.

[181]

Q Who is that?

A Fred Bolotin. Fred Bolotin is an Orthodox Jew who lives about 10 doors down from me on my block, maybe eight doors.

Q He appeared at the hearing, didn't he?

A I can't say. No. He might because Fred Bolotin served -- he's a lawyer, he served as a person on one of these boards or committees for many years. He was surprised. And I have an email from him even saying that he never got any mailing.

Q Anybody else that you know of that --

A I don't have a lot of people on my block --

Q All right.

A -- that are Jewish. I know there might be one or two more who I figured would have gotten it, but didn't get it.

Oh, yeah. I don't remember her name. I think -- okay. I can say this to you. There's a woman that's one house off the corner, a Jewish lady, an old Jewish lady. I think her name might be Ruth. I don't really know her name. It's easily ascertainable which house it is. She didn't get it either.

* * *

[194]

BY MR. CLIMER:

Q The pages -- or paragraphs 157 to 159 you indicate that the city set up regular patrols of your home looking for parking violations. You reference an email from Lieutenant McArtor. Can you tell me what was going on with the parking situation there?

A 158, you said, or 7?

Q 157 through 159.

A So between 156 and 159 which carries on to the next page. Okay. So what is the question?

Q There is apparently some kind of dispute or [195] controversy over how you're parking.

A Okay.

Q My question to you is do you understand what the controversy was about?

A I probably know better than anybody.

Q So tell me about it.

A March 23rd, which is part of leading up to Passover, I suppose -- I have to verify that. I'm pretty sure it's true. The night of the -- no.

The night of the 23rd, meaning the early, early morning hours, like two o'clock in the morning of March 23rd, I had an out-of-state friend, disabled military vet, who drives a pickup truck come to my house. He arrived -- because he was driving from New York, by the time he got there with his stops he calculated one thing and winds up showing up around 2:00 in the morning, and my two cars were parked in my driveway.

My driveway is a winding road driveway, which is very long. It's not a straight little line. My house is 120 feet wide. My lot is 155 feet wide. So you can hold like 30 cars in my driveway, but the angle of the S-curve of my [196] driveway made it such that he wouldn't be able to get around my two vehicles who kind of like blocked it, so to speak, without turning on my other two cars -- not my other two cars. My two cars.

My two cars would have made a lot of noise. My pickup truck is a V8 super-charged Hemi, it's blue with very clear identification stripes all over it, Ohio plates naturally, and turning that on at two o'clock in the morning would have been very inconsiderate to my neighbors because it's going to "Vroom" and like really blast through the neighborhood at that time. So to not be a jerk like somebody who doesn't care about

other people, even the week after they treated me the way they treated me, I still, as a matter of my personal ethics, told my friend to pull around me and go up further.

So he went around my grass line and came back onto my driveway, and then he dumped his car in a part of disputed territory that the city couldn't get their game together. They don't know what they're doing over there. The zoning code people don't know what they're doing at all over there about an area that previously was approved to [197] pour concrete, that they then go on to say you can't pour there, so I took all the gravel that was there out of there and put it in the back yard to recycle it, and it had little speckle dusts of gravel from two years earlier that my friend put his car in there, which is part of my driveway area in front of my house, not disturbing a sole in the world.

Eight o'clock in the morning, Mrs. Porter, who was in Florida on March 23rd, using her cameras that she set up to spy on me and my personal doings, my personal space, my personal happenings, notified the department of buildings via the mayor. She called the mayor on his cell phone. She emailed the mayor and said "Danny Grand, Danny Grand is parking illegally in his driveway."

So here we are with a driveway that can hold like 20 cars, 30 cars, 15 cars, whatever it is, and I have three cars that are -- two of mine, my wife's car, my car, and my friend who just visited from town a few hours earlier, and low and behold a phone call from a

lady in Florida watching camera videos of my house gets the police to come. And the police, who don't really [198] know the law very well either, apparently, issued me a violation for parking regulation when their authority ends at the sidewalk. Everybody knows that the police have restrictions for parking to the street. The department of buildings would have jurisdiction over any sort of parked vehicles on the lot itself, not on the public rights-of-way.

So they issue a ticket to my friend, the disabled veteran. They lied in their CAD report and said that I was the one that they noticed and my car was there, but I wasn't there. I was at synagogue.

And you know who knew that? Mrs. Porter, who said I was at synagogue in her email, and she was right. I did. So I wasn't there. The CAD report said I was there. They never changed it. They issued my friend a ticket for putting his car in my driveway. Get it. Think about that.

He put a car in my driveway and he got a ticket. That's not a nuisance? That's not annoying me? That's not harassing me? That's not unfair to me? This comes right after the mayor said call up on him, make complaints on him if you see anything, and this is what they see? [199] So I don't understand what's going on over here.

That's the whole parking thing: One car, one day, and we moved it right away. They didn't even give me a chance to move the car out of the thing. It was in a little indentation in the front of my house, which is,

again, 125 feet wide, and a little tiny car, which is 14 feet wide, that wasn't disturbing anyone in the world, but I've got nine police cars over there giving me tickets that isn't to me. I never got issued a ticket. It wasn't issued to me. So that's not even accurate.

Q So I -- you mentioned Mrs. Porter, and I understand the Porters set up video surveillance of your property, correct?

A That's right.

Q And I think there were pictures that you provided that are like three cameras set up.

A Four. On that round at the front of the house there's one more. Three on the side that you're referring to three. And then they relocated them a few times. So they danced them around to get better angles and shots. But ultimately they had three to four cameras at any given time for a very long time, which was very [200] damning for my son and my daughter, and it really bothered them.

Q You indicated that Mayor Brennan had used video footage set up by the Porters.

A He said that.

Q Mayor Brennan did?

A Right.

Q What did he view?

A He said that he seen all the documents and the transcripts and the videos and all the things that the Porters sent him as evidence, and they kept -- they kept bombarding him with tons and tons of stuff. He got censured over it, that whole ordeal. He said it himself.

Q Was he censured perhaps for calling Mr. Porter an asshole?

A To be honest with you, I don't think it was limited to just that, but that's probably the reason he called him that because he was just harassing him too, which started out as a buddy-buddy relationship, got to the point where you're pissing me off so I'm going to curse you out. That's what the mayor did. He got reprimanded for that. He wasn't standing up for me, though. Don't get mistaken.

[201]

Q I'm not.

A I'm just telling you. Okay. I'm not saying a word.

Q You take issue with the decision by Prosecutor Scalise not to take legal action against the Porters.

A Where are we on that?

Q 166 and 167.

A 166 and 167 don't say that I took issue with anything.

Q No. Well --

A I'm sorry.

Q -- you allege that Ms. Scalise did not take any action.

A No. I know that she didn't.

Q Okay. My question to you is have you done any legal research into whether or not the Porters' actions were legal?

A Yeah, I did.

Q Do you have the results of that anywhere?

A Are you asking for memorandum of law?

Q No. I'm asking what research you did that would indicate to you that the Porters' cameras were a criminal offense --

A There's an order --

[202]

Q -- that Ms. Scalise would have jurisdiction to pursue.

A Fine. There's an ordinance called annoying persons and any objective reading -- fair, objective reading of annoying persons in the UHCO, which is potentially a misdemeanor --

* * *

[220]

Q So you're comparing the documents that you received to the requests you made.

A Of course.

Q Okay.

A And why did it take almost two years to even get a little bit of something? It wasn't for me. It was just some other lady that did me a favor and threw me a chewed up dog bone. I want my own piece of steak. They never, ever took the time to focus on my FOIA request to this day and look into what I asked for exactly and satisfied that at all.

Q At pages 191 through --

A Paragraph.

Q Paragraph. I keep wanting to say pages.

A It feels like it's that long.

Q Yeah. It kind of does, doesn't it?

A Yeah.

Q Paragraphs 191 through 194 are talking about missed garbage pickups. Tell me about that.

A It was another way that I feel the city [221] utilized the administrative process through the service department, building department, housing department, all these other administrative

departments to kind of pick on me and make my life a living hell and miserable and annoying or whatever.

Your screen went out. Does that matter because Eden is not on it?

(Discussion had off the record.)

A So you just asked me, if I understand you --

Q What happened that you -- what were the things that were missed?

A There's a standard pickup day. I believe for us it's Tuesday. Mr. Pokorny, who was the service director at that time, had been reached out to by my wife multiple times because no one's picking up our garbage, but only miraculously through this little period of time did they do that. So it was like, I think -- I'm going to paraphrase my memory here -- an 8-week or a 10-week or a 12-week period where they were routinely not picking up our trash, and you have to wait another week. And we will call about it, where are they, why aren't they coming, and they never really had much of a reason other than, oh, [222] I guess the guys must have missed it. Like how do you miss it? And how do you miss it week in and week out?

So that was clearly just not taking care of us like they take care of everybody else.

Q So the only reason you got was I guess we just missed it?

A We got nonsense reasons. Mr. Pokorny was then at one point called to my house because it was a little bit frustrating. I probably pay the most or close to the most taxes of any resident in University Heights. You figure I could get a little bit of garbage cleanup, you know. And, honestly, I just get mistreated by all these people. And if they didn't mistreat me, then I couldn't kind of, you know, be upset. I don't want to be upset. I want to be positive and happy.

Q Did Mr. Pokorny give you any reasons why this had occurred?

A So what he wanted to try and do is have a conversation with my wife without me knowing about it, and I just didn't like that. As the Orthodox Jewish man of the house, it's like in my mind, you know, very inappropriate. So --

[223]

Q She's the one that made the call, wasn't she?

A That's okay. But she doesn't have to meet with him. He can meet with the head of the household.

Q Okay.

A I'm not from that mind state. I think that he should meet with me. He's a man and he should speak to the man.

Q Well, did he -- did your wife advise him to speak with you --

A I had pulled up --

Q -- or did he --

A -- just as he arrived and rang the bell. I'm not claiming he did something wrong. Don't misunderstand me. I felt that he should be speaking to me. And I redirected the conversation as I got there, I said, "No, Mr. Pokorny. Please, let's have a conversation, you and I."

I sent my wife basically to not worry about it because it's a pressure. She's a mom with four kids, she's working very hard, and I don't want her to be frazzled and have a bad day.

Q So what did Mr. Pokorny tell you?

A He tried to tell me, "Oh, well, one of the [224] reasons we don't pick it up is because your driveway's kind of winding and curving, and it's -- the guys don't want to drive up it, so you just have to bring your garbage to the front."

Q Okay.

A But nobody has to bring their garbage to the front. In fact, that's one of the main perks, if you want to call it that, of University Heights is that they come to pick up your garbage. Everybody loves that. But they don't want to do that for Mr. Grand, the Jewish guy, but only after he came out as Jewish, only after he had this hearing.

What's going on over here?

Q Did you have any further conversations with anyone about this situation?

A You mean on that day?

Q No. At all.

A I will tell you that I would not be the one to make a phone call to the city and ask them to pick the garbage up again or whatever. So my wife probably did call them again and say, "Hey, you missed it again, you missed it again." Eventually they got back on track, I imagine. I don't know when.

[225]

Q Eventually they did start picking it up again.

A Thanks very much. Yeah. But, like I said, it was probably 12 weeks or maybe even more by the time we actually got them to knock it off.

Q Paragraphs 234 to 235 talk about an incident in which you were cited telling you to remove stones from an area nearest to the garage that's being used to extend the driveway.

Is this the area that your friend parked in before?

A Partially, yes.

Q Okay. And that's the area where you had attempted to expand your driveway, the city said no, and then you hauled the stones to your back yard?

A No.

Q Okay. Tell me about this situation.

A When I first moved in 2019 to that house, shortly thereafter I hired an architect to do renovation work which included extensions on the left side and the right side of the original footprint of the house when I bought it. The contractor did not do a good job regarding walkways, pathways, concreting, and they left out [226] basically anything.

Now, what the contractor told me then was, "Oh, I'm one of the good ole boys. I've been working here for years. I'm a good guy. I do this and I do that with them. They don't ask for that stuff. They just give me whatever I want," blah, blah, blah. Meanwhile, I paid a lot of money and I hired an Amish company to come in and pour concrete where we were supposed to pour concrete in the place where there was a brick paver stone path that cars could be parked on in the area you're talking.

And I'm talking about when I bought the house. So nobody had a problem with the previous person parking in that same exact place ever when the stones were there. We're talking about paver stones that were there. Satellite photos will show you they were there before I bought the property.

* * *

[253]

Q You still have a familial relationship with your family, you've been able to keep up relationships with your wife, your family, your kids, correct?

A To what degree? I don't know what that means. Do I see my kids every day? They live with me.

Q Okay. You continue to handle your financial affairs, correct?

A If you look at my books, you can see that the past couple years since this whole thing happened have not been as pretty as they were when I first came here for sure, no. So I would say not on the same level at the moment, no.

Q But, nevertheless, you were able to provide for your family.

A I'm going to tell you the truth. A Torah Jew like myself, what we do as far as our work, or whatever, is called, achrayut, but your parnasa, the sustenance that you receive, is from God. So does God continue to provide for me while I've been on the earth? Yes. I don't think I have really much else to do with that in my religious belief system.

[254]

Q How would you characterize your relationships with your family; good, bad, indifferent?

A When you say my family, are you referring to my wife and my children?

Q Yes.

A How would I characterize my relationship with them?

MR. GROSS: I'll object.

You can answer.

A My relationship to them?

Q Yes.

A Kids are pip squeaks. They're little and cute. I think my oldest child is 7, and then 6, and then 3, and then 1 and a half. So how much can you relate to them? It depends how you ask.

If you ask like how you and I can relate to each other, you're a senior to me, and I can still look up to you and have a conversation and learn something from you. You know, my kids are still tiny.

And my wife, I love my wife and she's dedicated to working hard to take care of our family, and I'm proud of her.

Q Very good. I want to talk to you about damages in this matter. [255]

You claim that your house is suffering a stigma, if I understand it correctly. Tell me about that.

A I mean, it seems pretty clear that nobody wants to touch the place.

Q Okay. Have you had it listed with a realtor?

A Yes.

Q Who's that?

A She's from Berkshire Hathaway. Friedman maybe. Sharon Friedman might be the name.

Q Have you had any offers?

A We have not.

Q Have you had anybody tour the house?

A I had thus far three families: Two were doctors, one was an Indian descent; one was an Irish Catholic descent; and one dean of the school, an African-American family. So three people who are well to do came and that was it.

Q How long has the house been on the market?

A Around -- it was ultimately less than a year. I don't know the status if it's technically still listed or not right now. I don't know what Sharon's up to. I really don't know. I don't know.

* * *

[266]

Q Do you know when those deed restrictions were written?

A I know that they were throughout the '20s to the '50s, maybe even '60s. Might have gotten quashed in the civil rights era perhaps.

Q Do you know if they're enforceable in this day and age?

A Do I know that those deed restrictions are enforceable?

Q Yeah.

A No. I said historically that's what's gone on in that neighborhood.

[267]

Q Okay.

MR. CLIMER: Let me have just a second.

I believe it or not, I think that's all we got.

MR. GROSS: Okay. I'm going to do, hopefully, a quick cross exam.

- - - - -

EXAMINATION

BY MR. GROSS:

Q Mr. Grand, I'm going to ask you a few questions now.

First set is about the planning commission hearings on March 4th, 2021, and the follow-up meeting on March 23rd, 2021.

Question one, why did you get an attorney for those meetings?

A I think I was told to.

Q Do you remember by who?

A Could have been Ms. Thomas maybe or maybe Michele Weiss or somebody from the city. I don't know exactly who, but I wouldn't have done that on my own.

Q In writing or oral?

[268]

A Might be through a phone call. I was advised -- not advised. Wrong word. I was told I would need an attorney present.

Q Did you know in advance of the March 4th hearing that it would be a quasi-judicial proceeding?

A I had no idea. Nobody told me.

Q Okay. So you did not know that you would be in a situation that would be like a court of law?

A No, I did not know that I would be in that type of situation.

Q And you did not know that there would be kind of the interrogation of witnesses with cross-examination?

A No, I did not.

Q And under oath?

A I did not know I would be under oath.

Q Did you know that you would have a certain amount of time and then you would have to rest your case and that your case would be closed?

A I was not made aware of that by anyone, not until the day of the meeting. At the time the hearing started, Mr. McConville rambled off some things. That's the first I heard of it.

Q So it was not your understanding that after [269] that meeting the record would be closed and you would not be able to supplement the record afterwards?

A I started to find that out midstream in the hearing, and I protested and begged for them to let me bring some stuff out, and they kept telling me no.

EXHIBIT 1

Declaration of Daniel Grand

January 26, 2024

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

GRAND,	)
	)
v.	) Case No. 1:22-cv-1594
	)
UNIVERSITY HEIGHTS, et al.	) JUDGE BRIDGET M. BRENNAN
	)

DECLARATION OF DANIEL GRAND

Pursuant to 28 U.S.C. § 1746, I, Daniel Grand, hereby declare as follows:

1. I live with my family at 2343 Miramar Blvd. in University Heights, Ohio.

2. I am an Orthodox Jew, and pursuant to my sincerely held religious beliefs I do not drive from Friday night sunset until Saturday when the stars come out. I refer to this time period as Shabbos, which is the Jewish day of rest.

3. I daven three times a day. When I refer to "daven" or "davening" I mean prayer. The three daily prayers are "shacharis, mincha, and maariv."

4. I daven every day with a minyan. When I refer to a "minyan" I refer to a group of at least ten Jewish males gathered for prayer.

5. A "shul" is a Yiddish term that means a place where davening occurs. Depending on the context, when I refer to a "shul" I may be referring to a large formal synagogue, a small residential home where davening groups are held, or a room within a larger building where davening groups are held. As an example, within a formal synagogue – which I may refer to as a shul – I may also refer to the room within the building where the prayers are held as the "shul" as opposed to the social hall or the library.

6. The closest shul that I daven in is a far walk, about a mile, from my house. During the week I drive to shul. On Shabbos I walk. It is very cold in the winters and hot in the summers. I consider it a religious obligation to bring my children to shul with me to teach them the ways of the Torah. My children are very young, and it is either difficult or in some cases impossible for them to make the walk to shul.

7. On or about January 19, 2021, I sent an email inviting friends to daven at my house for Shabbos. This is not unusual for Orthodox Jews to do, especial those who live a far walk from a shul.

8. I don't remember exactly how many people I sent the invitation to, but I believe it was approximately 12. I only sent it via email, not other messenger apps or means.

9. In the invitation, I wrote that we would have the "inauguration of the Shomayah Tefillah Beis Hakneset located at 2343 Miramar Blvd. (The Daniel J. Grand Residence.)"

10. Shomayah Tefillah is a not-for-proft that I founded in 2013, when I lived in New York. It is my personal charitable fund.

11. The statement that we were having the inauguration of the Shomayah Tefillah Beis Hakneset in my house was not literal. As an analogy, it would be like if I invited people for a pickup baseball game at my house and called my house "Grand Stadium."

12. I know that the intended recipient of my email understood what I meant because they are my friends and they knew that I was converting my residential home into a formal synagogue that would be ready to be inaugurated a few days later.

13. I did not post my invitation on the "Groveland Chat" or anywhere. Groveland Chat is a Whatsapp group of Orthodox Jews who live on or near Groveland Road, which is a two-block area. I am not on Whatsapp. I did not send my invitation to Ben Feldman. He was never invited to my house, for that purpose or ever.

14.After the City sent me a cease-and-desist letter, I immediately canceled my invitation by emailing my friends. I followed the City's instructions to apply for a Special Use Permit. At no time did I ever want to convert my home into a formal synagogue. The notion that I can turn my residential home into a

formal synagogue is absurd. A house is not a synagogue and a synagogue is not a house. I had no intention of opening up my house to the public.

15. I only wanted to use my recreation room for davening on Shabbos. I only applied for an SUP because the City sent me a cease-and-desist letter and threatened that I could get into trouble if I hosted a prayer group without an SUP. The City maligned me to my neighbors by accusing me of something that I never stated, never intended, and never did.

16. I gave two checks for my application, one for $100 and one for $300. I have never received a refund.

17. Nobody from the City ever reached out to me to inform me of any deficiencies in my application or to help me with my application in any way, despite me asking for assistance should there be any deficiencies.

18. Before the Planning Commission meeting on March 4, 2021, I was not presented with any materials. I was never sent the letters of opposition that were sent to the City or the map that I later learned Mayor Brennan had created that highlighted all of the houses in the City that signed a petition against me. I did not receive a single document related to my application before the meeting.

19. Gesu is a large Catholic church that operates a parochial school with hundreds of students and is located on Miramar Blvd., one block away from my home.

20. It is a massive complex with cars going in and out every day of the week.

21. It is well known that my neighbors who complained about my single room in my house for Shabbos prayers have no problem with the massive Church and school that is right up the block and that Tom Brady (not me) can hit with a football from my house.

22. I sent a document request to the City on July 29, 2021.

23. I followed up several times: on August 11, 2021, on September 30, 2021, on June 22, 2022, and again on September 2, 2022.

24. I followed up at a BZA meeting on October 20, 2021, by asking the Clerk, Kelly Thomas at the meeting on the record about my request. She acknowledged that the City was aware of my request and that it had not been satisfied. Our exchange about my records request should be reflected in the official minutes of that meeting, or else otherwise recorded by the City.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 26, 2024

/s/ Daniel Grand

Daniel Grand

EXHIBIT 2

UNIVHTS001027

Grand email invitation

January 19, 2021

From: Michael Brennan <MDB@universityheights.com>
Sent time: 01/22/2021 06:39:55 AM
To: Luke McConville
Subject: Fwd: Regarding Prayer session at my house

This message was sent from the City of University Heights

Regards,
Mayor Michael Dylan Brennan
sent from my mobile device
---------- Forwarded message ----------
From: "Daniel J. Grand" <danieljousha@me.com>
Date: Jan 21, 2021 11:17 PM
Subject: Regarding Prayer session at my house
To: "Daniel J. Grand" <daniel@violationremoval.com>
Cc: Michael Brennan <MDB@universityheights.com>

To all my friends that I invited to come pray at my house, our first attempt at our newly thought of prayer group this inaugural Shabbos, the city of University Heights has directed me to halt any gatherings that could be seen as a "Place of Religious Assembly, or the operation of a Shul, or Synogogue".

As a result of this unforeseen matter, we will have to cancel the prayer group at this time.

The city has directed me to refer to City Codified Ordinance Chapter 1274 entitled "Houses of Assembly and Social Service Uses." And, that I may make an application to the City's Planning Commission for a special use permit.

Good Shabbos,

Danny Grand

On 1/19/2021 11:37:11 PM, Daniel J. Grand <danieljoshua@me.com> wrote:

You are cordially invited to join us this Shabbos for the inauguration of the Shomayah Tefillah Beis Hakeneset located at 2343 Miramar Blvd. (The Daniel J. Grand Residence)

The Davening Times will be:

Friday Erev Shabbos Mincha 5:20 p.m.

Shabbos Shacharis followed by Kiddush 9:45 a.m.

Mincha Followed by Seudah Shlishit 5:00 p.m.

You will see the entrance - keep a look out for the Orange Windows -

The prayer session is being put together for two reasons, one has always been to expand the community, so we can spread out and open up more houses on the other side of belvoir, and the other is to

have a place where people come to really, seriously daven to Hashem - we want to have a place that doesn't have talking during the davening, a powerful place to have your prays heard and answered Bezrat Hashem -

We are on the fence regarding the nusach, we want to see what the kehilla would prefer, we are debating between Ashkenaz, and Sefard, the services for this week will be Ashkenaz.

Thank you so much, and if you have any questions, or would like to share something, please fell free to reply.

Blessings,
Mr. Daniel J. "Danny" Grand
Shomayah Tefillah

EXHIBIT 3

UNIVHTS001093

Ben Feldman facebook message

January 21, 2021

Ben Feldman

You're friends on Facebook

Lives in University Heights, Ohio

Studied at Case Western Reserve University

12:14 PM

Mayor Brennan, Hello! Hope all is well. I hate to write this because I am a supporter of the Jewish community in town and am a member of one of the official zoned synagogues on Green Rd. I also appreciate all that CH/UH and Beachwood do to help the community. Today I received the attached message on our Groveland Chat about someone opening a synagogue in their house on Miramar. My friend just told me that someone else is doing this on Churchill. Not only do these non zoned makeshift synagogues upset the people who live on the blocks, they also hurt the official synagogues on Green Rd. and Cedar. I also know that they are not practicing any Covid protocols. If there is anything you could do to put a stop to this it would be greatly appreciated. I am sure the official Rabbis and leaders of the Jewish schools in town would support you in this if you asked

them. There are already a number of these pop up synagogues in the neighborhood, one on my own block on Groveland. If you have any ideas or need help contacting the official Rabbinic leadership in town please let me know. I am sure Mayor Jason Stein could also be of help. If the Jewish community is still growing that is great, but they should be following the city rules and Covid Protocols. Thank you for all of your hard work! Please see attached. There are picture they sent too of elaborate work that was done to build this house synagogue. I can send those too if you need.

You are cordially invited to join us this Shabbos for the inauguration of the Shomayah Tefillah Beis Hakeneset located at 2343 Miramar Blvd. (The Daniel J. Grand Residence)

We would also like to take this opportunity to introduce to you our Rabbi - Rabbi Rosskam - a smicha recipient from Rabbi Rueven Feinstein, and Rabbi Heinemann from Star-K

The Davening Times will be:

Friday Erev Shabbos Mincha 5:20 p.m.

Shabbos Shacharis followed by Kiddush 9:45 a.m.

Mincha Followed by Seudah Shlishit 5:00 p.m.

You will see the shul entrance - keep a look out for the Orange Windows -

And Please spread the word to whomever you feel might be interested in coming -

The shul is being put together for two reasons, one has always been to expand the community, so we can spread out and open up more houses on the other side of belvoir, and the other is to have a place where people come to really, seriously daven to Hashem - we want to have a place that doesn't have talking during the davening, a powerful place to have your prays heard and answered Bezrat Hashem -

We are on the fence regarding the nusach, we want to see what the kehilla would prefer, we are debating between Ashkenaz, and Sefard, the services for this week will be Ashkenaz.

Thank you so much, and if you have any questions, or would like to share something, please fell free to reply.

Finally, if you are interested in joining us for some or all of the minyanim, please let us know, it will be super helpful, we're pushing hard to make sure we have a minyan right from the start so please come and also please consider bring someone with you.

Blessings,
Mr. Daniel J. "Danny" Grand
Shomayah Tefillah



Here is one picture

EXHIBIT 6

McConville email to Grand

with cease-and-desist letter

January 21, 2021

From: Luke McConville <mcconville@nicola.com>
Date: January 21, 2021 at 5:22:28 PM EST
To: talk@dannygrand.com, danieljoshua@me.com, daniel@violationremoval.com
Subject: 2343 Miramar/Use of Premises as a Shul

Dear Mr. Grand – Please see the attached correspondence relating to 2343 Miramar Boulevard, and the proposed use of said premises for religious assembly. Mayor Michael Dylan Brennan attempted t contact you today by phone at [REDACTED] to discuss this matter.

Thank you for your attention to this matter.

Sincerely,

Luke McConville

Nicola, Gudbranson & Cooper LLC
ATTORNEYS AT LAW

Landmark Office Towers
Republic Building, Suite 1400
25 West Prospect Avenue
Cleveland, OH 44115
Phone: 216-621-7227
Fax: 216-621-3999
www.nicola.com

January 21, 2021

Direct Email: mcconville@nicola.com

VIA EMAIL: talk@dannygrand.com; danieljoshua@me.com; daniel@violationremoval.com AND VIA CERTIFIED AND REGULAR U.S. MAIL

Mr. Daniel Grand
Ms. Rakhel Davidoff
2343 Miramar Boulevard
University Heights, OH 44118

Shomayah Tefillah Beis Hekeneset
2343 Miramar Boulevard
University Heights, OH 44118

Re: 2343 Miramar, University Heights, OH 44118
Planned Operation of Shul/ Place of Religious Assembly

Dear Mr. Grand and Ms. Davidoff:

I am writing to you in my capacity as Law Director for the City of University Heights (the "City"). The City has been made aware that you intend to use the premises at 2343 Miramar Boulevard (the "Premises") as a place of religious assembly and in operation of a shul. Pursuant to the zoning map and codified ordinances of the City, the premises are zoned U-1 for residential use. The use or operation of the Premises as a religious place of assembly and/or in operation as a shul or synagogue is not permitted under the City's ordinances.

The City hereby notifies you that the use of the Premises as a place of religious assembly and/or in operation of a shul or synagogue is prohibited. To the extent that the Premises are currently being used for said purposes or are intended to be used for such purposes in the immediate or near future, the City hereby demands that you immediately cease and desist any and all such operations. Violation of the City's ordinances in this manner may result in building code citations against you and in the pursuit of additional remedies.

The City is particularly disturbed to learn of the proposed use of the Premises as a place of religious assembly given that you recently appeared before the City's Board of Zoning Appeals in connection with your application for variances. The City is exploring whether variances granted for the Premises may be voidable based upon a subsequent illegal use of the Premises, or due to material omissions during the

hearing process relating to your intent to utilize the Premises as a place of religious assembly.

Allow me to refer you to City Codified Ordinance Chapter 1274 entitled "Houses of Assembly and Social Service Uses." Under Chapter 1274, you may make application to the City's Planning Commission for a Special Use Permit.

Sincerely,

NICOLA, GUDBRANSON & COOPER, LLC
/s/ Luke F. McConville
Luke F. McConville

LFM/cdwj

cc: Mayor Michael Dylan Brennan

EXHIBIT 8

Grand SUP application

January 22, 2021

From: Daniel J. Grand <danieljoshua@me.com>
Sent: Friday, January 22, 2021 10:46 AM
To: Kelly Thomas
Cc: Michael Brennan
Subject: 2343 Miramar request for special use permit
Attachments: Scan.pdf

Dear University Heights Clerk of Council, Ms. Thomas,

Daniel Grand
2343 Miramar Blvd
home: [REDACTED]
google voice: [REDACTED]

I have been advised to apply for a special use permit for a place of religious assembly in my home at 2343 Miramar Blvd.

My intention is as follows:

I wish to utilize my current recreation room for periodic religious gatherings.

l can share the following details; This room was used as my computer room / music room, it was built with the idea that it would be my music room and is

soundproofed, via sound attenuation insulation, I have played my drum set very late in the evening and no one has heard it. Since I wasn't playing music all that much, the idea dawned on me about 2 weeks ago to use the space as a place for people to come and pray with me in my home. I am a religious man and am a Rabbinic student.

The total room size is a tinge over 700 square feet.

I have 11 tables set up and 21 chairs set up - there is plenty of walking space between the tables and chairs as well.

This is the ground floor, it is on slab as well, so there is not weight issue to contend with, there is no basement below it.

There are 3 means of egress in this parter/recreation room - one that leads to the center of the house, one that leads to the garage, and on that leads to the back yard. The windows are egress windows too -

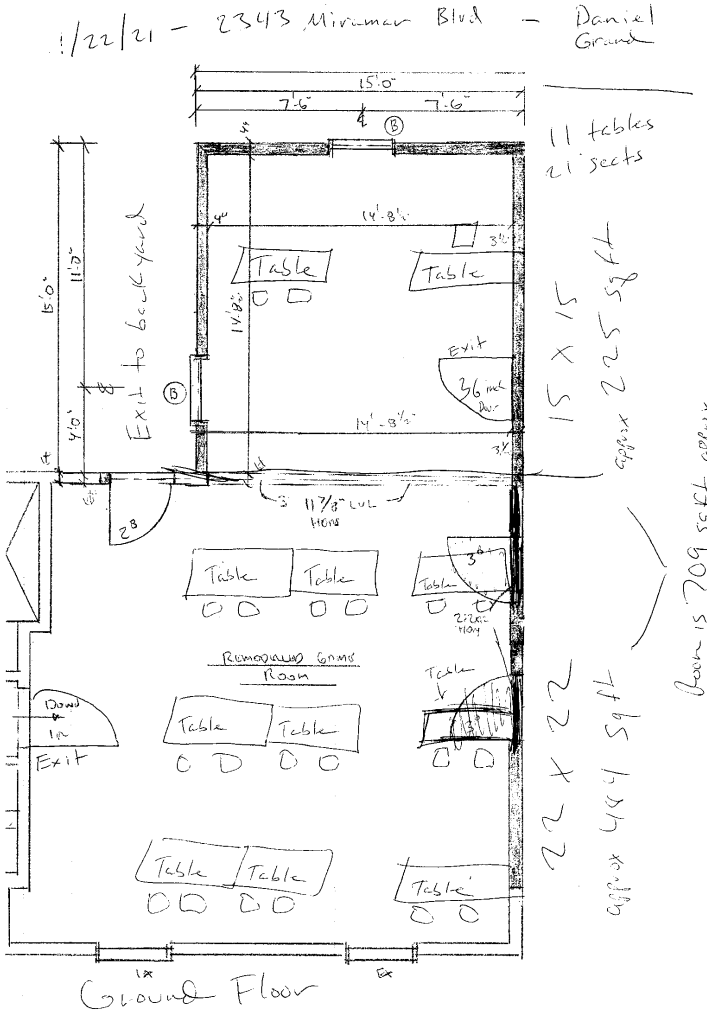
No one will be parking in my driveway - except my wife and myself - and on Sabbath people can not bring car either…

Please consider this my formal request for a special use permit and a meeting before the planning commission - Thank you.

If there is any other information you need prior to my request for a special use permit please let me know if I have not satisfied any of the requirements, and again after our discussion I understand that I would

miss this upcoming meeting, and could be on the "docket" for the next one.

Thank you,
Daniel Grand



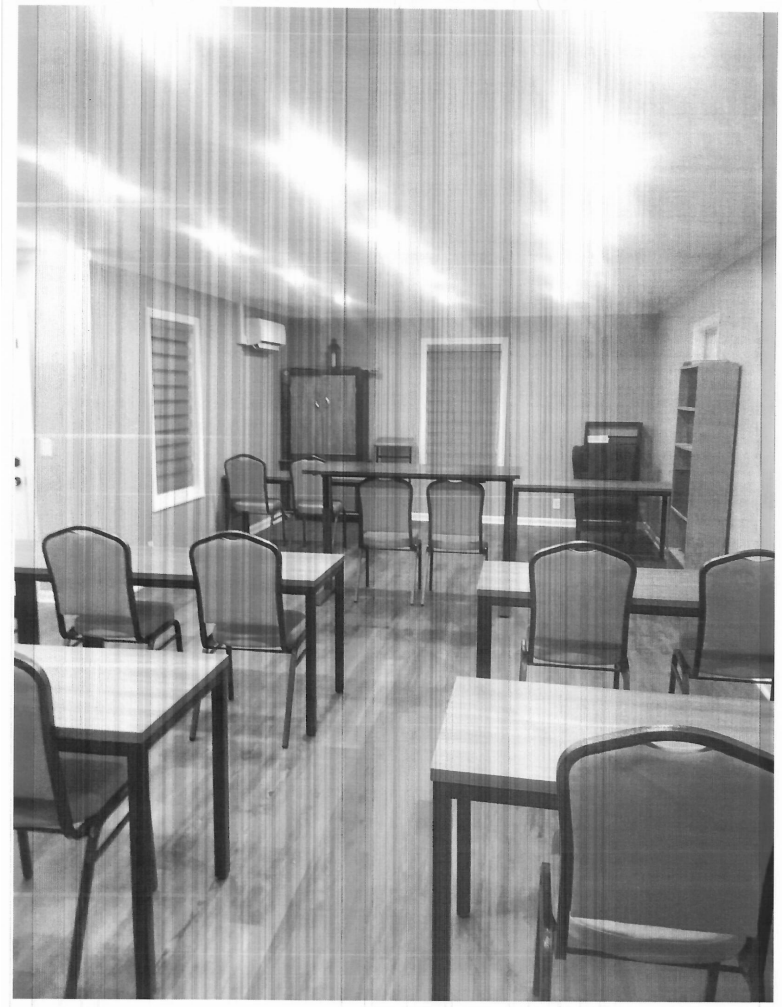


EXHIBIT 9

Notice of March 4, 2021

Planning Commission Meeting

UNIVERSITY HEIGHTS

PLANNING COMMISSION MEETING
Held via ZOOM

7:00 P.M. MEETING THURSDAY, MARCH 4, 2021

Join Zoom Meeting
https://us02web.zoom.us/j/82629585102?pwd=WkNIQllrZGdBWnlEZHFtdjNVdUF1dz09

Meeting ID: 826 2958 5102
Passcode: 415920

Dial by your location
+1 301 715 8592 US (Washington DC)
+1 312 626 6799 US (Chicago)
+1 929 205 6099 US (New York)
+1 253 215 8782 US (Tacoma)
+1 346 248 7799 US (Houston)
+1 669 900 6833 US (San Jose)
Meeting ID: 826 2958 5102
Passcode: 415920

AGENDA

1. CALL TO ORDER

2. ROLL CALL

3. APPROVAL OF MINUTES

4. AGENDA ITEMS:

   A. **Recommendation to City Council Regarding a Special Use Permit Application by Mr. Daniel Grand to use 2343 Miramar Blvd. as a Planned Operation of Shul/Place of Religious Assembly**

5. ADJOURNMENT

EXHIBIT 11

Change.org Petition

2343 Miramar Blvd Proposed Shul



242 have signed. Let's get to 500!

Neighbors in the University Heights Community:
2343 Miramar Blvd…

This petition includes digital signatures and confirmations from the neighbors in proximity to 2343 Miramar Boulevard, University Heights, OH 44118. Said residence is being converted to a house of assembly/worship.

This petition represents our grave concern regarding a house of assembly's presence on Miramar Boulevard. We do not take issue with any one's right to worship, as long as the location of the house of assembly/worship does not negatively impact our adjacent residential neighborhood. We feel this repurposed use of a home is not compatible with, and

disrupts the stability of, our adjacent residential home use.

Further, we feel a house of assembly/worship negatively impacts our surrounding property values. We are also concerned about parking issues as there is no provision for off-street parking. Finally, this house of assembly/worship does not have a residential purpose.

It is our collective desire that the City of University Heights Planning Commission consider our opposing concerns when reviewing the possibility of granting a certificate of occupancy to 2343 Miramar Boulevard, University Heights, OH.

Regards,

Residents of Miramar Blvd.

Name	City	State	Postal Code	Country	Signed On	Address
Greg Deegan	University Heights	OH	44121	US	2/15/2021	14189 Washington
Richard Washington	University Heights	OH	44118	US	2/16/2021	2281 Traymore
Kay Milkle	University Heights	OH	44121	US	2/15/2021	2287 Lalemant
Diane DeGaetano	University Heights	OH	44124	US	2/16/2021	2288 Loyola Rd
Alexandra Wiskes	University Heights	OH	44212	US	2/16/2021	2300 Lalemant Rd
Daniel Malone	University Heights	OH	44118	US	2/16/2021	2303 Loyola
Suzette Stanitz	University Heights	OH	44118	US	2/16/2021	2304 Lalemant
Kristin Clark	University Heights	OH	44411 8		2/21/2021	2304 Loyola
Kristin Clark	University Heights	OH	44118	US	2/21/2021	2304 Loyola
Kristin Clark	University Heights	OH	44118	US	2/21/2021	2304 Loyola
Ryan Supler	University Heights	OH	44124	US	2/15/2021	2304 Miramar Blvd
Maureen Lanza	University Heights	OH	44118	US	2/15/2021	2304 South Belvior Blvd

Jeanne Cunningham	UniversityHeights	OH	44118US	2/20/2021 2308 Loyola
Steve Ansberry	University Heights		44118	2/22/2021 2316 Lalemant
Mary Patton	UniversityHeights	OH	44118US	2/16/2021 2319 Glendon
Rita Haag	UniversityHeights	OH	44118US	2/16/2021 2319 Lalemant
Eileen McConville	UniversityHeights	OH	44118US	2/16/2021 2319 Loyola Rd
Alicia Cooney	UniversityHeights	OH	44118US	2/16/2021 2319 Miramar
Christopher Cooney	UniversityHeights	OH	44118US	2/16/2021 2319 Miramar
Mike Andrews	UniversityHeights	OH	44118US	2/16/2021 2323 Scholl Rd
Courtney DiMenna	UniversityHeights	OH	44118US	2/15/2021 2332 Scholl Road
James Gruber	UniversityHeights	OH	44118US	2/16/2021 2339 Glendon
Jean Gruber	UniversityHeights	OH	44118US	2/16/2021 2339 Glendon
Amanda Sass	UniversityHeights	OH	44118US	2/15/2021 2340 Miramar Blvd
Joseph Sass	UniversityHeights	OH	44118US	2/15/2021 2340 Miramar Blvd
Claire Rubadue	UniversityHeights Ohio	OH	44118US	2/15/2021 2343 Lalemant Rd

Laura Rubadue	UniversityHeights	OH 44118US	2/15/2021	2343 Lalemant Rd
Caroline Dobrowski	UniversityHeights	OH 44118US	2/16/2021	2348 Lalemant
Maura Dacey	UniversityHeights	OH 44118US	2/16/2021	2356 Lalemant
Thomas Sammon	UniversityHeights	OH 44118US	2/15/2021	2360 Miramar
Christine Domme	UniversityHeights	OH 44118US	2/15/2021	2363 Canterbury Rd
Katie Holzheimer	UniversityHeights	OH 44118US	2/15/2021	2365 Fenwood Rd
Andrew Ulrich	UniversityHeights	OH 44128US	2/16/2021	2367 Miramar Blvd
Joseph Ulrich	UniversityHeights	OH 44118US	2/16/2021	2367 Miramar Blvd
Julie Ulrich	UniversityHeights	OH 44121US	2/16/2021	2367 Miramar Blvd
Nathan Ulrich	UniversityHeights	OH 44134US	2/16/2021	2367 Miramar Blvd
Mary Curran	UniversityHeights	OH 44124US	2/16/2021	2372 Lalemant
Susan norcia	UniversityHeights	OH 44118US	2/17/2021	2383 Edgerton
Kerry Christy	UniversityHeights	OH 44118US	2/15/2021	238S Fenwood

Dominic Scoccola	UniversityOH Hts	44118US	2/16/ 2021	2391 Miramar Bvd
Michele Fusco Scoccola	UniversityOH Hts	44118US	2/16/ 2021	2391 Miramar Bvd
Cynthia Ditzel	UniversityOH Heights	44118	2/17/ 2021	2395 Fenwood
Jason Ditzel	UniversityOH Heights	44118	2/17/ 2021	2395 Fenwood
Audrey Lynn	UniversityOH Heights	44118US	2/16/ 2021	2397 Miramar Blvd
Jeffrey Lynn	UniversityOH Heights	44118US	2/16/ 2021	2397 Miramar Blvd
Karen Ruppe	UniversityOH Heights	44118US	2/15/ 2021	2403 Lalemant
Robert Ruppe	UniversityOH Heights	44134US	2/16/ 2021	2403 Lalemant
Katie Barrett	UniversityOH Heights	44118US	2/16/ 2021	2406 Glendon
Dan Hanna	UniversityOH Heights	44124US	2/16/ 2021	2408 Lalemant Rd
laura Hanna	UniversityOH Heights	44124US	2/16/ 2021	2408 Lalemant Rd
Nora Krupa	UniversityOH Heights	44118US	2/16/ 2021	2415 Fenwood
Stephan Krupa	UniversityOH Heights	44118US	2/21/ 2021	2415 Fenwood
Laura Steinbrink	UniversityOH Heights	44118US	2/16/ 2021	2428 Loyola Rd

Tim Kearney	UniversityHeights	OH	44118US	2/16/2021 2432 Traymore
Maureen Christy	UniversityHeights	OH	44118US	2/17/2021 2441 Loyola Rd
Thomas P Christy Jr	UniversityHeights	OH	44126US	2/15/2021 2441 Loyola Rd
Maryellen Callanan	UniversityHeights	OH	44118US	2/16/2021 2445 Loyola
Rosemary Kelly	UniversityHeights	OH	44118US	2/16/2021 2449 Traymore
Daniel Bacon	UniversityHeights	OH	44118US	2/16/2021 2451 Loyola
Kristen Bacon	UniversityHeights	OH	44118US	2/16/2021 2451 Loyola
Christine Hudak	UniversityHeights	OH	44218US	2/18/2021 2452 Fenwick
Vicki Giancola	UniversityHeights	OH	44118US	2/16/2021 2453 Saybrook
Kim Brandt	UniversityHeights	OH	44118US	2/15/2021 2467 Charney
Karl Kiser	UniversityHeights	OH	44118US	2/16/2021 2470 Miramar
Linda Martin	UniversityHeights	OH	44118US	2/16/2021 2470 Miramar
Kerri Dray	UniversityHeights	OH	44118US	2/15/2021 2475 Dysart
Jim Hutchinson	UniversityHeights	OH	44118US	2/16/2021 2512 Ashurst
Patty Hutchinson	UniversityHeights	OH	44118US	2/16/2021 2512 Ashurst
Michael Supler	UniversityHeights	OH	44118US	2/18/2021 2541 Milford

Sandra Supler	UniversityHeights	OH 44118US	2/15/2021	2541 Milford
Elizabeth McCann	UniversityHeights	OH 44118US	2/16/2021	2554 Charney
Margaret Halloran	UniversityHeights	OH 44118US	2/16/2021	2556 Edgerton
Molly Williams	UniversityHeights	OH 44121US	2/16/2021	2559 Traymore
Elizabeth Rinz	UniversityHeights	OH 44118US	2/16/2021	2575 Fenwick Rd
Dana Randazzo	UniversityHeights	OH 44118US	2/15/2021	2580 Charney
Emily Obrock	UniversityHeights	OH 44118US	2/16/2021	2584 Eaton
Thomas Obrock	UniversityHeights	OH 44118US	2/16/2021	2584 Eaton
Bridget Reider	UniversityHeights	OH 44118US	2/16/2021	2593 Edgerton
Michael DeLuca	UniversityHeights	OH 44118US	2/18/2021	2598 Kerwick
Susan Delaney	UniversityHeights	OH 44118US	2/16/2021	2603 Edgerton Rd
A Schuler	UniversityHeights	OH 44118US	2/16/2021	2607 Dysart
David Brady	UniversityHeights	OH 44118US	2/16/2021	2607 Kerwick
Liza Brady	UniversityHeights	OH 44118US	2/16/2021	2607 Kerwick
Angel Krsacok	UniversityHeights	OH 44118US	2/15/2021	2608 University Blvd

Bill Beck	UniversityHeights	OH	44128US	2/15/2021 2610 Kerwick Rd
Leslie Beck	UniversityHeights	OH	44118US	2/16/2021 2610 Kerwick Rd
Kevin Yates	UniversityHeights	OH	44118US	2/16/2021 2627 Kerwick Rd
Maureen Yates	UniversityHeights	OH	44118US	2/16/2021 2627 Kerwick Rd
Amy Boyle	UniversityHeights	OH	44118US	2/15/2021 2628 Kerwick
Kara Gladstone	UniversityHeights	OH	44118US	2/16/2021 2631 Kerwick
Kevin Gladstone	UniversityHeights	OH	44118US	2/16/2021 2631 Kerwick
Dana Ginley	UniversityhOHhts		44118US	2/15/2021 2639 Kerwick Rd
Matthew Ginley	UniversityOHheights		44118US	2/16/2021 2639 Kerwick Rd
Matthew Benisek	UniversityHeights	OH	44118US	2/15/2021 2642 Edgerton
Melissa Benisek	UniversityHeights	OH	44118US	2/15/2021 2642 Edgerton
Richard Skove	UniversityHeights	OH	44118US	2/16/2021 2659 Eaton
Corinne Stuppy	UniversityHeights	OH	44118US	2/16/2021 3827 Grenville

Mary McNeill	UniversityOH Heights	44118US	2/16/ 2021	3827 Washington Blvd
Karen OBrien	UniversityOH Heights	44122US	2/15/ 2021	3834 Claridge Oval
David Reiser	UniversityOH Heights	44118US	2/16/ 2021	3838 Grenville
Ann Valenti	UniversityOH Heights	44118US	2/16/ 2021	3852 Meadowbrook
Sean Supler	UniversityOH Hts	44118US	2/15/ 2021	3870 Faversham
Jenny McGreal	UniversityOH Heights	44118US	2/15/ 2021	3886 Tyndall Rd
Maureen Lindner	UniversityOH Heights	44118US	2/16/ 2021	3892 Meadowbrook Blvd
Nancy Agacinski	UniversityOH Heights	44118US	2/16/ 2021	4009 Washington Blvd, Apt 3
Mary McFadden	UniversityOH Heights	44118US	2/16/ 2021	4035 Silsby
John Barrett	UniversityOH Heights	44118US	2/16/ 2021	4058 Conover
Jacquelyn Spoth	UniversityOH Heights	44118US	2/15/ 2021	4066 Washington Blvd
Nelson Spoth	UniversityOH Heights	44118US	2/15/ 2021	4066 Washington Blvd

Julia Sellers	UniversityOH Heights	44118US	2/16/ 2021	4078 Washington Blvd
Christy Salata	UniversityOH Heights	44118US	2/16/ 2021	4096 Carroll Blvd
EDWARD ZAHURAK	UNIVERSITY HEIGHTSOH	44118US	2/16/ 2021	4096 Meadowbrook
James Murphy	UniversityOH Heights	44118US	2/15/ 2021	4097 Meadowbrook Blvd
Madeleine Murphy	UniversityOH Heights	44118US	2/15/ 2021	4097 Meadowbrook Blvd
Mark Chrisman	UniversityOH Heights	44118US	2/16/ 2021	4103 Meadowbrook Blvd
Annie Zaratsian	UniversityOH Heights	44125US	2/16/ 2021	4110 Hadleigh
Ryan King	UniversityOH hts	44118US	2/16/ 2021	4114 Meadowbrook
Kristin Krebs	UniversityOH Heights	44118US	2/16/ 2021	4128 Hadleigh
Emily Edwards	UniversityOH Heights	44118US	2/16/ 2021	4149 Hadleigh
Kevin Murphy	UniversityOH Heights	44118US	2/16/ 2021	4155 Hadleigh
Mary Bridgett Holzheimer	UniversityOH Heights	44118US	2/16/ 2021	4156 Carroll Blvd

William Holzheimer	University Heights	OH	44118	US	2/16/2021 4156 Carroll Blvd
Bridget Uhrich	University Heights	OH	44118	US	2/15/2021 4156 Hadleigh Rd
john uhrich	University Heights	OH	44118	US	2/16/2021 4156 Hadleigh Rd
Rita C. Steiner	University hts	OH	44118	US	2/16/2021 4158 Carroll Blvd
Sean Carmichael	University Heights	OH	44121	US	2/16/2021 4161 Bushnell Rd
Jennifer Vitale	University Heights	OH	44118	US	2/16/2021 4162 Carron Blvd
Susie Vitale	University Heights	OH	44124	US	2/16/2021 4162 Carroll Blvd
Anastasia Kijewski	University Heights	OH	44118	US	2/16/2021 4162 Hadleigh Blvd
Elssy Klug	University Heights	OH	44118	US	2/15/2021 4166 Carroll Blvd
Stephen Klug	University Heights	OH	44118	US	2/16/2021 4166 Carroll Blvd
caitlyn klug	University Heights	OH	44118	US	2/18/2021 4166 Hedleigh Rd

Pasqualeen Kessinger	University Hts	OH	44118	US	2/15/2021	4168 Carroll Blvd
Shannon Burke	University Heights	OH	44118	US	2/15/2021	4190 Carroll Blvd
Joseph Oddi	University Heights	OH	44118	US	2/15/2021	4201 Silsby
Shannon Oddi	University Heights	OH	44118	US	2/15/2021	4201 Silsby
Tad Resch	University Heights	OH	44118	US	2/16/2021	4341 Baintree
Amy Murphy	Beachwood	OH	44122	US	2/16/2021	
Ann Van de Walle	Beachwood	OH	44122	US	2/16/2021	
Anna Blakeslee	Cleveland	OH	44122	US	2/17/2021	
Arian Pesina	Fort Worth		76112	US	2/18/2021	
Barbara Intihar	Chagrin Falls	OH	44022	US	2/16/2021	
Betsy Garratt, DO	Cleveland	OH	44124	US	2/16/2021	
Bobby Scott	Marshfield		2050	US	2/18/2021	
Brian O'Keefe	Cleveland	OH	44118	US	2/16/2021	
Brock Lindsay	Waynesboro		17268	US	2/17/2021	
Carrie Morse	Cleveland	OH	44125	US	2/15/2021	

Christopher Tom	Pleasantville			10570	US	2/18/2021
Colleen Pokorny	Cleveland	OH		44124	US	2/16/2021
Corey Meyers	Lakeland			33809	US	2/18/2021
Cynthia Williams	Barberton	OH		44203	US	2/16/2021
DAVID CURRAN	Brunswick	OH		44212	US	2/17/2021
deayne cornell	Canton	OH		44709	US	2/16/2021
Deborah Oshaughnessy	Cleveland	OH		44124	US	2/16/2021
Elizabeth whelan	Euclid	OH		44123	US	2/15/2021
Ellen Neroni	Chagrin Falls	OH		44022	US	2/16/2021
Elona Gortz	Cleveland	OH		44121	US	2/16/2021
Emily Porter	South Euclid	OH		44121	US	2/16/2021
Erin Murray	Hooksett			3106	US	2/18/2021
G P	Cleveland	OH		44124	US	2/17/2021
Gissel Barajas	Rusk			75785	US	2/18/2021
Hanser Hernandez	Richmond			23235	US	2/16/2021
Jean Chagnon	Montreal			H2K	US	2/17/2021

Jeannine DeAngelis	Chandler		85248US	2/18/2021
Jennifer Rarick	Saint Louis	MO	63109US	2/16/2021
Judy Curran	Brunswick	OH	44212US	2/16/2021
lillie clark	Bountiful		84010US	2/16/2021
Lindsay Malone	Cleveland	OH	44121US	2/16/2021
Lindsay Sharp	Chagrin Falls	OH	44023US	2/16/2021
Lori Hart	Columbus	OH	43220US	2/16/2021
Lúcia Peebles	Glen Burnie	MD	21061US	2/16/2021
Lucy Todaro	Cleveland	OH	44124US	2/16/2021
Maddie Lafr	Naples		34116US	2/17/2021
makenna tipton	Columbia		21044US	2/16/2021
Marc Charlemagne	Miami		33161US	2/17/2021
Margaret Mascha	Cleveland	OH	44118US	2/16/2021
Margaret Skove	Cleveland	OH	44124US	2/16/2021
Marianne Walton	Cleveland	OH	44124US	2/16/2021
Marky Garabedian	Glen Allen		23060US	2/16/2021

Mary Kay Malone	Cleveland	OH	44124	US	2/17/2021
Mary Sammon	University Hts	OH	44118	US	2/16/2021
Maryan Baughman	Beachwood	OH	44122	US	2/17/2021
Maureen Gaines	Seattle	WA	98102	US	2/16/2021
Maxwell Deuble	North Canton	OH	44720	US	2/16/2021
McHenry Mary Lou	Beachwood	OH	44122	US	2/16/2021
Michael Andrews	Shaker Heights	OH	44118	US	2/16/2021
Michael Hill	Maple Heights	OH	44137	US	2/16/2021
Molly Dobrowski	Hingham	MA	2043	US	2/16/2021
Mona Erter	Cleveland	OH	44120	US	2/16/2021
Nelle Rufus	Cleveland		44106	US	2/17/2021
nicole garofoli	Beachwood	OH	44122	US	2/16/2021
Patrick O'Shaughnessy	Cleveland	OH	44124	US	2/16/2021
Patrick Ruppe	Cleveland	OH	44121	US	2/15/2021
Patrick Thomas	Cleveland	OH	44122	US	2/16/2021
Patti Doyle	Beachwood	OH	44122	US	2/16/2021

Robert Borger	Vandalia		45377US	2/18/2021
robin soeder	Cleveland	OH	44118US	2/16/2021
Rosemary Weltman	Cleveland	OH	44124US	2/16/2021
sam blumengarten	Orlando		32801US	2/18/2021
Sam Terry	Salt Lake City		84120US	2/17/2021
Sammi Passey	Omaha		68133US	2/18/2021
Sarah Vilek	Brunswick	OH	44212US	2/16/2021
Stephanie Phipps	Cleveland	OH	44122US	2/16/2021
Susan Andrews	Shaker Heights	OH	44118US	2/16/2021
Susan Ulloa	Crestline		92325US	2/18/2021
susan yuratovac	Chagrin Falls	OH	44023US	2/17/2021
Tim Gascoigne	Beachwood	OH	44122US	2/16/2021
Tim Reed	Westlake	OH	44125US	2/17/2021
Troy Dotson	Chicago		60619US	2/18/2021
Veronica Garofoll	Pepper Pike	OH	44124US	2/16/2021
Xiaoke Guo	Chicago		60605US	2/17/2021

EXHIBIT 12

Transcript of March 4, 2021 Planning Commission Meeting

CITY OF UNIVERSITY HEIGHTS

2300 Warrensville Center Road

University Heights, OH 44118

216.932.7800

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IN RE: CITY PLANNING COMMISSION MEETING

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Meeting held Virtually Via Zoom

Thursday, March 4, 2021

7:00 p.m.

Planning Commission Members:
Mayor Michael Dylan Brennan, Chairman
Michael Fine
April Urban
John Rach
Paul Siemborski
Kelly M. Thomas, Clerk of Council
Luke McConville, Law Director
Dustin Rogers, Police Chief

* * *

[4]

MAYOR BRENNAN: Approved with corrections. And let the record reflect these are actually the minutes from February 4, 2021. As we were doing this, I was thinking, I know we met more recently. Okay. Very good. All right.

Then we will get to the heart of this agenda, which is item 4A: Recommendation to City Council regarding a special use permit application by Mr. Daniel Grand to use 2343 Miramar Boulevard as a planned operation of shul, place of religious assembly.

Before I recognize Mr. Grand, the applicant, to present, Mr. McConville, is there anything you wanted to go over with respect to this evening's proceedings?

MR. McCONVILLE: Yes, Mayor. Let me touch on a few housekeeping measures both for the benefit of our audience and as a reminder to planning commission members.

Planning commission has before them a hearing for a special use permit under Chapter 1274 of the City Zoning Code relating to the use of the property improvements at 2343 Miramar Boulevard as a shul or house of worship.

Because the planning commission's role [5] this evening is to decide upon a matter of property use

under the city's zoning code, this -- (Zoom audio interference).

MAYOR BRENNAN: Luke, you have been muted for some reason. I need you to unmute.

MR. McCONVILLE: Let me back up.

Because the planning commission is considering a measure of the use of property under the city's zoning code, the hearing will be conducted as a quasi-judicial hearing under Chapter 2506 of the Ohio Revised Code.

That means, among other things, that we will be swearing in under oath any person who wishes to speak or testify at this hearing and it also means that we are obligated to provide the opportunity to cross-examination by the applicant with respect to any person who wishes to speak in opposition to the application. That is a matter of Ohio law.

I think it would be helpful to go over the order of our proceedings tonight just so that everyone has a feel for what we're going to be doing and the order in which we're going to be doing it.

The first thing we will do is provide [6] the floor to the applicant. You will be sworn in and make a presentation as to his application. The applicant is permitted to call witnesses, present any other evidence, documentary, testimonial, or otherwise, relevant to the application.

Next we will ask for the participation of any person who wishes to speak in favor of the applicant's application. Once all those in favor have spoken, we will ask any -- for any persons who wish to speak in opposition to the application.

Anyone speaking, as I mentioned before, anyone speaking in opposition to the application may be subject to cross-examination. That is left to the discretion of the applicant.

After those in opposition have spoken, the planning commission will have the opportunity to ask questions of the applicant and once they have exhausted any questions they may have for the applicant, the floor will be closed. The planning commission members can conduct any deliberations they deem appropriate and they will take action this evening by motion and pursuant to roll call vote.

[7]

The city is aware that this is a matter of great interest among the public. This is not the ideal format for conducting a quasi-judicial hearing. We're going to ask everyone to be patient.

The planning commission members will stay here as long as it takes. If we were in person, they would be kicking me under the table, but they will stay here as long as it takes to hear everyone. Everyone will have the opportunity to speak and at the end of the evening, they will make a vote.

We would ask that you remain muted until you're recognized and we would also ask that everyone on tonight's call adhere to a standard of decorum; that is, in keeping with the dignity of our city.

For the purposes of orienting the applicant, those opposed as well as our planning commission members, I'm going to walk through the legal standard that's going to be considered this evening.

As I mentioned before, Chapter 1274.01 establishes special uses within the U-1 single-family home district, including houses of [8] worship or religious education, churches, temples, synagogues, religious organizations, parish houses, and parochial schools.

Sections 1274.02(e) and (f) are applicable as the legal standard for this evening's hearing. 1274.02(e)(1) states: "Subject to all other provisions of this chapter, special use permits may be permitted only on land fronting on the following streets: Cedar Road, Warrensville Center Road, South Taylor Road, Fairmount Boulevard, North Park Boulevard, and Green Road."

1274.02(e)(2): "A special use permit may be issued by the planning commission for land fronting on other streets where the applicant demonstrates by clear and convincing evidence that the use will benefit and not impair surrounding property values or uses, vehicular parking, and pedestrian congestion or traffic conditions, noise pollution, and will not be otherwise contrary to the public health, safety, or

welfare, subject to the approval of a majority of council."

1274.02(f) provides prohibitions and those are as follows:

[9]

Number 1, "No building may be used for the uses defined in this chapter unless originally designed and approved for such use;"

Number 2, "The conversion of a residence, store, or other building for a use defined in section 1274.01 is prohibited;"

Number 3, "All uses defined in Section 1274.01 must have frontage on one of the streets referred to in division (e) hereof;"

Number 4, "No use permitted herein shall include sleeping or residential use accommodations on any part of the site;"

Number 5, "No variance from any of the requirements of prohibitions under Chapter 1274 may be granted without the approval of the planning commission and the approval of council, each following public hearings at which the applicant demonstrates a clear benefit to the community and that denial will result in an unnecessary hardship to the applicant."

And I note for the benefit of the planning commission that variances would have to be provided

to items 1 through 4 that I just read through along with variances relating to lot size, lot frontage, front side and rear yard [10] setbacks.

The clear and convincing evidence standard that is enunciated is defined as follows: "Clear and convincing evidence is that measure or degree of proof which will produce in the mind of the trier of facts a firm belief or conviction as to the zoning criteria sought to be established."

And lastly, on a note that the city is in receipt of a variety of written materials that have come to the city in the form of petitions and letters both from residents of the city in favor of and opposed to the proposed applications, those materials have been provided to planning commission members in advance of the hearing and those items will be included as part of tonight's record.

As with any trier of fact, the planning commission members are asked to exercise their judgment in determining the relative degree of weight to apply to any particular piece of evidence, document, or testimony.

I'm happy to answer questions about the legal standard as planning commission members begin their deliberations.

[11]

And with that, Mayor, I would turn the floor back over to you.

MAYOR BRENNAN: Thank you, Mr. McConville. I know you touched on this somewhat and I also want to make sure that it's repeated perhaps for emphasis.

There are lots of things that I know people have had to say especially with regard to things that they have filed and submitted to the city. I would ask that people keep their comments germane to the application that is pending before this body this evening and that we take testimony and hear evidence and commentary only on those matters that are directly relevant to these proceedings.

There are a lot of people here and I anticipate a lot of people are going to want to talk. I am in the position of being both the Mayor, the chair of this planning commission, and ultimately the one holding the gavel to call people to order. If you are talking about things that are beside the point or are more properly relevant before some other body with regard to some other complaint or issue you may have, I will at first cautiously remind you to keep your [12] comments germane if they are not, and ultimately we will move on to somebody else who may have something that they want to say that is relevant directly to the special use permit application on the agenda this evening.

* * *

[17]

So I'm going to speak for a bit. Then I'm going to ask basically to do a direct examination of Mr. Grand. There might be some questions you guys may have.

After that, I'd like to talk to Rabbi Rosskamm, the proposed rabbi for this proposed space.

Okay. So in my mind, this hearing is about whether a residence of University Heights may host prayer services in a designated, modest space in the resident's house and in a manner that is respectful of and unintrusive upon the resident's neighbors. This should clear things up here.

So to start, let's walk through Chapter 1274, the Chapter referenced by Mr. McConville. Specifically, section (1)(d), which substantively is very analogously described by the section Mr. McConville referenced in his introduction. Let's apply it to Mr. Grand's proposed use as the ordinance unsurprisingly codifies much if not all of the concerns that I understand the neighbors have about his proposed use.

But even before this, let's look at subsection (1)(b) of Chapter 1274, which provides [18] that a permit is needed to operate as a house of worship or a synagogue. This is a threshold item. If Mr. Grand's proposed use rises to the level of synagogue, then the other provisions of this chapter are triggered to apply.

We're here. We're not disputing that it applies. Nonetheless, I believe it's important that we have in mind that Mr. Grand wants to use the space in his house to host men's only prayer services for a prayer group once a week and on certain high holidays.

This use to me, now I'm -- to me, it doesn't bring to mind the usual imagery of a formal synagogue like you may have in your mind of such type on Green

Road. Those are the types of synagogues, formal synagogues, or public spaces which families of men, women, and children shuttle in and out throughout the day and night to pray, to study, to socialize; where cars align the street or a crowded lot for life events like weddings or bar mitzvahs; and not only can be held, but they're routinely held.

What Mr. Grand hopes for is far from the image of these types of synagogues, formal places of worship. (Zoom audio interference.) In the [19] Jewish community, it's called a Shabbos Shul. It connotes a nimble amount of separation, often held out of a residence. (Zoom audio interference) provide an area with nearby communal prayer on days when driving is prohibited and relaxing or serious praying is encouraged by Jewish law.

I liken it to if Mr. Grand were to throw some bases out into his backyard, yeah, he has a field there. He might even call it Grand field. He might play with his kids there. He might even invite some guys over and play a game of baseball. Might go on for a few hours. He may have 20 people playing.

But what he's established is not -- I'm here in Cleveland right now, it's not Progressive Field down the block. It's a shul, just like that's a field, but it's not a formal endeavor to that level that you may have in your mind.

Regardless, let's assume Mr. Grand's proposed use would constitute a synagogue or a house of

worship and return to the meat here, your concerns as codified by section (1)(d).

This subsection, as Mr. McConville said, is to safeguard the public health, welfare, and [20] safety on Miramar and its surrounding neighborhood, enumerates an extensive list of concerns that Mr. Grand's proposed use cannot, showing it does not, overstep.

I'll run through each at a high level and then I'd like to engage in something like a direct examination of Mr. Grand to further bring the facts out here before we engage in hopefully a good, neighborly discussion of what's going on, of what everybody wants.

So the first item on this list is surrounding property values, the effect the proposed use might have on it.

I'm going to do a quick thing here. There might be an effect on property values. It will not be a negative one. I think that's borne out by at least in my experience in areas that have anything to do with Jewish activity. I wish it was cheaper. It's just not.

Surrounding property uses, the effect here, no effect on surrounding property uses. The space has already been built and a prayer room is just that. A place for about 10, that's a Minyan, that's a quorum needed for prayer in a Jewish setting, for about 10 people to pray and [21] then they're done, they go home, back to their families.

All these days are very family-oriented days. There won't be lingering around especially because this is not really a family shul, a family synagogue, as I described before.

Vehicular parking. The Jewish Sabbath, high holidays, as you're probably aware, no driving is permitted. You might say theoretically people can drive up until the holiday itself actually starts.

Mr. Grand made it clear to me, I believe he has or he will make it clear to everyone who comes by, that parking is not desired or allowed on his space. It is, after all, also the space of his residence.

Pedestrian conditions. The effect here, there won't really be a noticeable effect. If there's any effect, it will be a very, very slight effect if you happen to notice one guy or two walking around you haven't seen before. The fact is most of the people, everyone who would be coming to this prayer room, lives within the vicinity and most likely already walks around this block on Miramar on the high holidays and on [22] the Jewish Sabbath when we can't drive, like to walk around on strolls.

Traffic conditions, like I said, there's no driving. There will be no cars brought to this endeavor.

Lighting glare at night, that's a nonissue. I think that's enough said on that one.

The last one is noise pollution. There's no effect on this. This is, again, serious prayer. Then you go home to your family.

In fact, even if we were into instruments and playing and singing very loudly for these services, the room itself is actually soundproofed during construction. It was designed as a music room. It wasn't even designed for this purpose to begin with.

So with that high level overview, I would like to bring Mr. Grand back in for me to have a direct examination of him, if I might.

MR. GRAND: Mr. Rosenfeld, can you hear me?

MAYOR BRENNAN: Please proceed.

MR. ROSENFELD: I can.

MR. GRAND: Thank you, Mr. Mayor.

[23]

MR. ROSENFELD: Okay. Mr. Grand, we all know you've done construction on your house. We've seen it. What sort of construction have you done?

MR. GRAND: From the time I bought this house, I have expanded the footprint of the building by enlarging the master bedroom and the living room, the family room on the north side of my home, and I have added a garage and utilized the previous garage space as arranged for residential purpose.

MR. ROSENFELD: So am I right in understanding that on the left side of this construction, you have two floors there, correct?

There's two floors on the left side of your house facing the house from the street?

MR. GRAND: That's correct.

MR. ROSENFELD: What's on the top floor?

MR. GRAND: It's one room. It's my master broom.

MR. ROSENFELD: What's underneath that in that new expansion?

MR. GRAND: It's one room, it's my great room/family room.

* * *

[28]

MR. ROSENFELD: Well, at some point you certainly did convert it into a space to be used as a prayer room. We can see now in photographs what's specifically there. We have chairs, tables.

MR. GRAND: Yes.

MR. ROSENFELD: What else did you do to begin to prepare it as a prayer room?

MR. GRAND: I think that transition occurred throughout the month of January. Like it went from sort of by doing this, an idea, getting a little bit of attraction, and I made [29] the acquaintance of Rabbi Rosskamm, whom I had met through a friend of mine, who, you know, as a matter of factly, and, again, I wish you would meet with some of my friends. He was

thinking that it was a smart idea or a good idea, it could be useful or helpful for our community, the community, in other words.

So upon meeting Rabbi Rosskamm, he had given me more direction and I had some ideas. Then we kind of had a meeting of the minds and I decided that I would move my drum set out of there too and I went on to buy some chairs and some tables.

So instead of having music equipment and loungy kind of chairs and things like that, I bought basically about two dozen chairs and about ten tables. I just arranged them in that room. I arranged them.

MR. ROSENFELD: So the plan began to take shape, space began to take shape, you were talking to the rabbi, talking to Rabbi Rosskamm. You were talking to the neighbors in the area who might want to come join you in a prayer group?

MR. GRAND: Yes.

MR. ROSENFELD: By any chance did you [30] put up a sign to indicate that you were going to begin listing services?

MR. GRAND: I didn't put up any signs or anything external to my property to indicate that I would be having, potentially be having a prayer group in my house.

MR. ROSENFELD: Did you start a website? I happen to know that you have experience designing website's. Did you start a website --

MR. GRAND: I didn't start a website regarding the space. Zero. No. My pure intention was never to broadcast this to really anybody. I, in confidence, I mean perhaps incorrectly so, in confidence, I had sent a very simple e-mail message to about 8 to 10 people from the Jewish community that, you know, I thought might be interested in something like this.

It appears that that e-mail unbeknownst to me got taken by, I think the story I heard how it happened, it was one of the wives took the e-mail and thought she was doing a favor and she copied it into a ladies group of Cleveland What's App group or something like that. Apparently it spread all over the place and it became something [31] well more than I had ever, ever thought of or anticipated.

You know, I was not inviting this, no offense, like everybody in University Heights to my house. It really wasn't what my intention was, but somehow it got spread like all over the place. I was sort of shocked, to be honest.

MR. ROSENFELD: So you certainly didn't imagine that. What did you imagine for this space? Best case scenario, what did you imagine that space manifesting itself as?

MR. GRAND: I think you said it, but I'll just say it too for the record as well. I live right now about a mile away. Most of the synagogues, Orthodox synagogues, are in Beachwood and maybe one or two University Heights that are a legitimate synagogue. I was saying that, you know, I didn't know the weather

-- no offense, as bad as it gets, it's a little bit rough sometimes. It snows a lot. Sometimes it's raining a lot.

I can't carry an umbrella on the Sabbath. I can't take my kids half the time, even though they're supposed to come, they should come. They want to learn about their faith, [32] their culture, and their history. They really can't.

It's no one's fault, but at the same time it is a mile six times over a 24-hour period because you got to walk back and forth for each of the three prayer services. So it's six miles of walking that I endure every Saturday and Friday routinely, which I had really done without anybody caring or minding, nor should they, in my opinion.

It's my life. It's a private matter and I don't request any sympathy or anything on that note. But at the same time, you get older, I have more kids now, and it is a family day, and it is excessive as a walk. It is excessive as a walk. It's a far walk. Six miles is a lot and the weather conditions are bad.

So I thought that it might be good to invite people to my home. I thank God I have some extra space at home and I thought it would be appropriate. I don't know if a prayer group is really, you know, comparable to a full-fledged synagogue, but when the city notified me that they wanted me to go through this process, I immediately abided because I do respect the laws [33] here, I do respect the people here, and I respect everybody that is partaking in this and the community abroad, and all I want to do --

MR. ROSENFELD: Mr. Grand, if you don't mind, I just want to refocus on the question. Oriented from the space itself in terms of when you see the space, when you began -- when you were ready to open yourself up to bring in a prayer group for prayer services at your prayer room, what did you imagine?

Let's say it took off. What would the manifestation be? Just from the angle of the room itself, what would it manifest as? We know, for instance --

MR. GRAND: I can say --

MR. ROSENFELD: Allow me just to make sure the question is clear. We know, for instance, a quorum for Jewish prayer in a group setting is 10. We know that your room has a finite amount of space and a finite number of chairs. So what did you imagine it functioning as on a day-to-day or weekly basis?

MR. GRAND: Well, weekdays and Sundays, the room would just be basically another room in my house. I don't always sit in my great room [34] either. It's a formal lounge-like living room like when I have guests or a friend of mine comes over, my wife has a girlfriend come over, they sit and talk in that room perhaps. I'm not there three or times per week in my own living room.

That particular room is being named stuff that I don't that -- I call it my parlor room, to be honest. They call that the parlor room in my colloquial personal life. But let's call it the prayer room.

So that prayer room, you know, I would still use it during the week for myself, but I have no need or interest or desire or intention to bring anybody over my house for prayer services or any other religious services or anything of that nature Sunday, Monday, Tuesday, Wednesday, Thursday.

Friday evening till Saturday evening is the 24-hour period, but the Jewish day starts at sundown and ends at sundown. Sabbath starts at sundown and ends at sundown. So it would really only be on Sabbath and high holidays when we can't drive. Only on the days we can't drive.

So it's essentially one day a week, you know, mostly throughout the year, maybe three or [35] four high holidays throughout the year, like Thanksgiving, then at Christmas, then at Easter. It pretty much parallels. Easter parallels Passover, Christmas parallels Hanukkah. So the paralleling holiday seasons, more or less. Other than that, no weekday activity whatsoever.

MR. ROSENFELD: Okay. So in terms of that e-mail you sent out when you were beginning to inaugurate hosting, in that e-mail, you referred to the space as Shomayah Tefillah. What does that mean in Hebrew? In English, actually.

MR. GRAND: God hears prayer. Shomayah is listener of, and Tefillah means prayer. Who is the listener of prayer? God. So it translates to God hears prayers.

* * *

[40]

MR. ROSENFELD: Next item is pedestrian conditions. Describe the effect you would imagine.

MR. GRAND: Well, we're not a marching band practicing or trooping or whatever you will call it. It's really just the same people. You have to imagine every single Orthodox Jew who lives in University Heights is walking. All these people are walking in University Heights anyway.

So it's really, I don't know, sort of impossible to imagine that I'd be bringing people in like a coliseum and thousands of people will be coming, you know, to take over the streets for like this short period of time.

Quite the contrary. I think it would be [41] minuscule and nothing what you would say out of the ordinary. There are plenty of dog walkers. There are plenty of people who just go for brisk walks. There are joggers. There are school teams that run in unison. It's great. I don't think we have the quietest block in that sense. I think that we have a beautiful block that everybody loves to be on and loves to traverse. I don't think that handful, really literally a handful of people, is going to, you know, make any difference in the world.

To your point earlier, Mr. Rosenfeld, you had stated accurately a lot of these people are walking around anyway, walking here anyway. So these are people who live within three, four, five blocks of my house. So this is their block too.

There's no outside people being drawn in like we're putting up a concert somewhere, people drive from all over the country to get there. This is nothing like that.

MR. ROSENFELD: These items that are enumerated, there's overlap. The next item is traffic conditions. What effect do you imagine?

MR. GRAND: I don't imagine any effect. [42] I could tell you, again, no vehicles necessary, no vehicles will be brought, and I will enforce that with authority. If I have maybe one person who is not knowledgeable, they will learn extremely quickly. At the same time if one person in the world ever parked in front of somebody's house, I don't think that would constitute any sort of difficulty for the neighbors or anything like that.

It won't get out of hand. It's the opposite. There won't be anybody coming. I'm making that extremely clear, just to make it something that people can, rest assured, will not occur.

MR. ROSENFELD: I can attest to the fact if Mr. Grand says he's going to enforce something, he's going to enforce it. If he enforces something, it's fully enforced.

Next item is lighting glare at night. What effect do you imagine?

MR. GRAND: I can't turn lights on and off. I can't do that on the sabbath, so I'm not going to be turning any lights on.

MR. ROSENFELD: How about noise pollution? What effect do you imagine?

[43]

MR. GRAND: Well, I don't know about anyone else, but as far as I'm concerned, I've never heard anyone having a conversation inside their own house while I'm in my house.

So I would find it hard to believe anybody in their own house would be able to hear me talking at this level or even if we're all talking.

Jewish prayer is actually quiet. We don't use electric devices so we can't use speakers, we can't use microphones, we can't make noise, we can't amplify, we can't make sound, we can't make music. We can't do many, many things. There's a lot of restrictions in Orthodox Judaism.

So there really will be no more noise than the sound of somebody talking. Actually, the main pinnacle of the prayers that we have as part of the liturgical composition is actually called silent prayer, and it is. It's quiet. It's solemn. So there really is no sound in that sense.

MR. ROSENFELD: So then at the end of this list it enumerates a few, call them catchalls, to make sure there are no things [44] slipping through the cracks. Public health, public safety, public welfare.

Are you breaking -- I'm going to ask a series of yes-or-no questions. Just say yes or no.

Will you be bringing or would your guests be bringing any toxic or illegal substances to the premises?

MR. GRAND: I know that they will not. The answer is no.

MR. ROSENFELD: Will there be any gang members arriving at your premises?

MR. GRAND: Certainly not, no.

MR. ROSENFELD: Will anybody be bringing weapons to your facility, premises, except as permitted by applicable law?

MR. GRAND: Even that, no, because you can't carry on Sabbath. You can't carry an umbrella in the rain. Not allowed. You can't carry. It's a prohibition of religious law, so the answer is no. It could not be anything else.

* * *

[102]

MR. McCONVILLE: State your name for the record.

MS. HAWKEN: Kerry Hawkins, 2363 Lalemant Road.

KERRY HAWKINS, of lawful age, having been first duly sworn, was examined and testified as follows:

MAYOR BRENNAN: Very good. If you could speak up, we're having a hard time hearing you. You may proceed.

MS. HAWKINS: My first statement, I would like to echo everything that Mr. Cooney said. I think he was well prepared, said everything very well. So I would just like to echo everything he said. And I was not on for the people you had initially talked with, so I'd like to add myself to that list.

My second question, I don't think this has been mentioned as much, but I am a CPA and I've been living in University Heights for 32 [103] years and my inquiry with this is is this going to be a tax exempt institute and if it is, what are the requirements for doing that?

If you're going to be an invite-only small group, non-inclusive, you know, compare that to temples on Green Road? Compare that to Gesu Church? There's a little bit of a difference there. So what are the requirements to be a religious institution and to be inclusive.

I'm honestly not specialized in this area. I am inquiring. I would like to know.

I would also like to know on that forefront if this is approved, would I be able to also have tax exempt status for my home if I wanted to have a Bible study group? Or what would I have to do to have a tax exempt status on my primary residence?

MAYOR BRENNAN: They're probably beyond the scope of what we're considering this evening.

Mr. McConville, what do you think?

MR. McCONVILLE: You know, I'm not going to curtail the testimony of residents. I would ask them to try to stick to the application and issues and to be as concise as possible. I'll [104] leave it at that.

MAYOR BRENNAN: Very good. Thank you. You may proceed.

MS. HAWKINS: (Zoom audio interference) and will there be any outdoor activities for the religious activities as well?

MAYOR BRENNAN: I don't know that there's been any testimony on that.

Mr. Rosenfeld, do you have any cross-examination for this resident?

MR. ROSENFELD: No, I don't.

MAYOR BRENNAN: Appears to be a no. Very good. Thank you. Appreciate it.

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[112]

MAYOR BRENNAN: Very good. Thank you then. We will move on then to Vivienne Porter. I know you've been waiting patiently. I am concerned about time, so if people could be economical about their

comments and if they're only covering new ground and, again, directed to the applicant and the application.

Mr. McConville, would you swear her in?

VIVIENNE PORTER, of lawful age, having been first duly sworn, was examined and testified as follows:

MS. PORTER: I just have a couple questions. We're the closest neighbor to the Grand residence. We live 12 feet from this. This is such a big part of our lives.

MAYOR BRENNAN: Street address again, just for the record.

MS. PORTER: 2355 Miramar. We are exactly 12 feet away. We cannot possibly just talk about the shul as being that many feet away or it's only a certain portion of the house, [113] because in Ohio, any part of the dwelling is what's going to be receiving this permit. So you'd be issuing a permit for a shul that is 12 feet from my house.

Mr. Grand discusses parking. He is in complete refusal to comply with last summer's variance. He is parking on the lawn with his truck and has been doing so for two weeks with no notice from the city. That was something that we discussed in front of the BZA last summer and he was denied the variance, but continues to park exactly there.

People are saying, how could the Grands purchase this house without realizing where it was and knowing how far it was from a temple. I'm not sure if you're all aware, the Grands moved from a house on Silsby where they lived for three and a half years. So they did not purchase the home on Miramar with no concept of where any temples or synagogues or shuls were. They've been in University Heights now for five years.

Yes, we totally heard him playing the drums all last summer. Despite what has been discussed here and this being a music soundproof room, we heard the drums being played many times [114] after that variance I mentioned just a few minutes ago was denied and in complete retaliation the drums went on into the night. So it's not super soundproof in any way.

I guess the last thing I'd just like to say is it's just so close to us. We've been dealing with this. I live -- have lived in the Heights for 65 years and I'm begging you to please consider that this is a clear-cut case of spot zoning.

Thank you.

MAYOR BRENNAN: Thank you, Miss Porter.

Mr. Rosenfeld, do you have any questions for Miss Porter?

MR. ROSENFELD: I do not.

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[125]

MR. McCONVILLE: You are correct. I can help you out briefly. It's 1274.02(f)(5) that you're referring to. That section says, "No variance from any of the requirements or prohibitions under Chapter 1274 may be granted without the approval of the planning commission and the approval of council, each following public hearings at which the applicant demonstrates a clear benefit to the community, and that denial will result in an unnecessary hardship to the applicant."

MR. KLUZNIK: Thank you. With that in mind, I think that it's significant that we heard Mr. Grand say that he bought the house over two years ago, he remodelled it to put a music room in and he had a spontaneous inspirational idea perhaps when he had a conversation with a rabbi to convert it to a prayer meeting area.

I also heard the rabbi say that it's not an ideal setup for even what they're proposing and they're even considering a better location that would be larger if the interest is [126] sufficient.

That tells me there is no undue hardship by denying this special use permit for some inspirational spur-of-the-moment idea, particularly when you balance that against the questions that have been raised by the residents as to what it will do to the neighborhood as it has existed for at least 30 years or maybe longer where we live in a city that is a delicate balance of a mixture of nice neighborhoods that are

well maintained by solid families with family values balanced against commercial areas along the perimeter that are designed to be commercial areas and balanced against university property with student housing that we're constantly trying to keep in balance with a family neighborhood lifestyle.

So with all these questions in mind, the balance, in my opinion, weighs clearly in favor of denying the special use permit and leaving the street as it is.

Thank you.

MAYOR BRENNAN: Thank you.

Mr. Rosenfeld, any cross-examination for Mr. Kluznik?

[127]

MR. ROSENFELD: No.

MAYOR BRENNAN: Very good. Then I see more hands up. I'm concerned about time. If you do want to speak and it's not duplicative, please keep it very brief.

Nathalie Supler, you will be next.

Mr. McConville, would you swear her in?

Did we lose her? Not hearing anything. All right. We'll move on. If you raise your hand again, we will come back to you.

James Murphy. Sorry, I think I just muted you when you unmuted. Mr. Murphy, unmute again, please.

JAMES MURPHY, of lawful age, having been first duly affirmed, was examined and testified as follows:

MAYOR BRENNAN: You may proceed. State your name and address for the record.

MR. MURPHY: James Murphy, 2408 Loyola Road, University Heights. I've lived in this house for the better part of 13 years. My wife, Meg, grew up on Lalemant Road as did her mother. They were residents there for well over 30 years.

I wanted to -- I'll be short and brief. In the interest of time, I want to reiterate what [128] many people have said, that this is clearly a bad precedence going forward for our town. I find that only two people that have come forward to speak on behalf of Mr. Grand have -- one of which included the fact that the only single reason that they're doing this is that they want to avoid a walk to their existing temple.

I'm sorry, if that's your problem and you used to live in this town, as was pointed out by another lady, you should have picked somewhere else. If your only problem is you needed it for a walk, you should have bought a house closer to where your house of worship is.

There is far too much hearsay in this application. You're opening up a huge can of worms. You're setting

a bad precedence. They're constant words and phrases like indicated and, you know, I just find that having watched this property being built for the last two or three years and the extent of the footprint and the design and the fencing and so on, I don't think it's appropriate. I think the wool is being pulled over our heads.

I very much enjoy the diverse community that we live in. I have commented over the last [129] several months, if not years, about the great new traffic of young families and children and activities and I love seeing kids outside playing, but this is not a place or a location to start a business and allow this can of worms to be opened up.

Thank you for letting me speak.

MAYOR BRENNAN: You're welcome.

Mr. Rosenfeld, do you have any cross-examination?

MR. ROSENFELD: I do not.

MAYOR BRENNAN: Very good.

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[132]

MAYOR BRENNAN: Okay. Very good. Thank you.

Mr. Rosenfeld, do you have any cross-examination for Miss Monahan?

MR. ROSENFELD: One question. How do you specifically imagine Mr. Grand's proposed use would undermine the nature of University Heights as a city of beautiful homes?

MS. MONAHAN: The city of beautiful homes, when I think of that, I think of families, individuals that are cultivating these homes. Having a business and a flurry of cars around the streets, although I know Mr. Grand has mentioned that it's not his intention, it's really going to take away from that.

I know a number of people have talked about people walking on the streets especially [133] amidst the COVID pandemic, something I myself, I walk my dog every single day. It would be something that I think would absolutely change the neighborhood and I would avoid if there's going to be a number of cars, a number of people crossing the street. It's just an additional danger. It's not only our neighborhood, but the kids in our neighborhood, this neighborhood of residential homes.

MAYOR BRENNAN: Very good. Thank you.

Kevin Callanan, you're next, if you're still interested.

MS. CALLANAN: Actually, it's Maryellen Callanan.

MARYELLEN CALLANAN, of lawful age, having been first duly affirmed, was examined and testified as follows:

MS. CALLANAN: My address is 2445 Loyola Road.

MAYOR BRENNAN: You may proceed.

MS. CALLANAN: Thank you for the opportunity.

I just want to say that I appreciate Mr. Grand's devotion to his faith and understand the harsh winters, but I agree with most others [134] on the call, this opens up a can of worms and sets a bad precedence.

This summer I was driving the neighborhood on Churchill Boulevard. There was a tent set up with chairs and there were probably 40 or 50 men gathered on a Saturday. It was in the papers that they also were requesting this shul stipulation.

In terms of creativity, there's a large office building that's next to Target. It's on Miramar and Cedar. Why not just see if you could rent some space and have your prayer group meet there? It would be a shorter walk and it wouldn't bother any of the neighbors.

I do think it says 10 people. Like I said, this house I observed this summer had 40 to 50. I think it would be a struggle for the city to enforce any of these stipulations, so I think it would just be best for all

considered that this is not granted and hopefully Mr. Grand and his group could find another location.

MAYOR BRENNAN: Thank you.

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[137]

MAYOR BRENNAN: Okay. Thank you. I see Callanan, you've raised your hand again.

All right. That was the last speaker. We will then move on to opportunity for rebuttal. Mr. Rosenfeld.

MR. ROSENFELD: So there's obviously a consistent concern I'm hearing. I'm hoping that, [138] you know, a lot of the questions I heard, a lot of concerns I heard addressed, they were specifically accounted for while myself and while Danny Grand, Mr. Grand, while they were speaking.

One issue I thought was not squarely addressed is capacity. How many people will actually be here to pray on a given day when premises are open for prayer?

Let's become completely clear. I'm going to say things Mr. Grand prefer I not say. We should have a realistic expectation, and that goes with all of our concerns, we should have a realistic expectation for what Mr. Grand's proposed use constitutes.

In terms of capacity, sure, he has 21 chairs. In terms of realistic ability to fill those 21 chairs, it's not

so great. If we put a probability on it, it's not so great. There are a lot of shuls in town where the actual Jewish community, the bulk of it, currently lives and resides. Those Jews already have a place where they worship on these days where Mr. Grand will be using his premises as a prayer room.

The people he would be reaching here are people who happen to be, let's say, as far up as [139] Belvoir. No one is really going past Belvoir closer to Green Road, probably will be no one walking towards services at least on a routine basis. That's part of why Mr. Grand is doing that.

There's also a lot of talk about him only wanting to do this because he doesn't want to do the walk. Mr. Grand does and will do the walk if need be, I'm sure. That's a benefit of what he's trying to do. That's not the sole reason for why he's doing this, although that's a reason he's stated.

The reasons he's doing this is he truly believes it's a mitzvah. It's a good thing to do for the community. He does have neighbors and there are people on his side of Belvoir who would benefit from this. They may not be as allegiant as people who are in opposition, but it's not a Jewish community, so that's no surprise.

It doesn't mean that this will just explode and there will be a huge influx of Jews living on the other side of Belvoir. That's a process. University Heights on the Green Road area is currently undergoing expansion of the Jewish community. That's where shuls, you know, [140] we have the Beachwood full on

shul. That is a parking lot that required a special use permit, that is people shuttling in day-in, day-out, morning, day, and night.

That's not the situation here whatsoever. That's a place where people flock to. Here is a place where people will come to because it happens to be convenient for them, because they happen to live on another side of Belvoir. So that's a realistic expectation.

I can tell you from talking to other people in my own community, people are not expecting this to take off and run flying. We honestly think he would be lucky on a lot of Shabbos, on a lot of different holiday and Shabboses to even get to the minyan.

It's a hard thing to start a Shul, especially when there's not much of a population to pull from. That's part of why and this leads into the aspect of commercial and business, which is another often-repeated concern.

Mr. Grand is an extraordinarily charitable person. I can attest that from the years I've known him. We should not assume he's acting out of self gain. I don't think that [141] would be a fair estimate of him. I don't think there's anything to base that on.

He's not seeking religious tax exemption on his property. I don't think he would even qualify for it, but that's beside the point really here. It just is, Vivienne, I know, but it is.

Let's say he were to put out a couple of Tzedakah bins, cans on the alter. That's quarters. Maybe some dollar bills. It's not even for him to keep unless it's designated for him to keep. (Zoom audio interference) and he's put in expenses for these items. There's no commercial business aspect of it.

MR. McCONVILLE: I'm going to interrupt here.

Mr. Siemborski, can we prevail upon you to remain on the call for some period of time?

MR. SIEMBORSKI: Only if you can tell me when this is going to end. I need this over by 10:15. This has gone on long enough.

Let me say there are 195 signed petitions against this, and we're sitting here going through this? So I hope this ends by 10:15.

[142]

MAYOR BRENNAN: Okay. Well, if we're done with the rebuttal, then we would be asking you and the other planning commission panelists if you have any questions to ask the applicant.

MR. SIEMBORSKI: I don't have anything to ask the applicant. I'm going to say I have from Kelly and from Luke 195 signed petitions that I looked at and I read through, and I've lived in three houses in University Heights. And 134 of those signers live in this city. They're against this.

There are places where we have designated uses for these types of special uses. So if you want to know where I stand, it's not in favor of this. That's all I have to say.

MAYOR BRENNAN: Very good.

MR. SIEMBORSKI: I'm actually disappointed that this was brought to our attention in that I would hope the applicant would know where the community stood with this.

We are a loving community. We live amongst each other. We understand diversity here. When we have 195 people coming out against this. This is a waste of my time this evening.

MR. McCONVILLE: The planning commission [143] prefers if you have questions of the applicant, you can ask questions. Alternatively, if you wish to close the floor, you can close the floor and make a motion.

MR. FINE: Luke, I have a couple questions of, procedural questions more than anything else. The whole format that we're going through tonight is different than one we've ever used before and I've been on the planning commission for a number of years and I don't understand why the format is so dramatic and different when we dealt with the Danziger application, I didn't follow this format. It was -- we weren't told that we're sitting in a quasi-judicial format and there was a prosecution and defense and, you know, which it self creates a very hostile, confrontational approach of an issue.

So can you kind of clarify why it's set up like it is tonight and what makes this procedure different than how we've ever handled anything in the past.

MR. McCONVILLE: A couple things. In the Danziger hearing, we did swear people in by oath. We did not have anyone speaking against [144] the application during that hearing. That hearing, the result of which was a tabling, did not have any particular person speaking against it.

The reason that we are following the procedures that are outlined in 2506.03 of the Revised Code is that this is a zoning consideration. It's one of the quirks of our zoning code that the special use permit under this particular chapter of ordinances, 1274.01, is not decided by our board of zoning appeals. It's instead decided by our planning commission.

This is the very same procedure we walk through in every single board of zoning appeals position we held. So it is a zoning decision that is conferred by a special section of the code to the planning commission.

I agree with you that most planning commission meetings are not conducted in this format, but when we have a zoning issue at planning commission, we did attempt to adhere to the restrictions and the guidelines in 2506.03 and that's why we're doing this tonight.

MR. FINE: Another question is it's not clear to me from the packet of information that [145] was forwarded what exactly is being sought. Normally when we have a meeting, there's a proposed

resolution that sets forth details of what we're trying -- what's being asked and that's not here.

For people to consider something, what exactly are we -- we have to formulate it ourselves? What exactly is -- are we being asked to vote on and make a decision on?

MR. McCONVILLE: The applicant is seeking a special use permit under 1274 to operate in a residential home as a shul.

MR. FINE: When we've granted special use permits in the past, they're not always so broadly worded and we're often (Zoom audio interference) that we can consider very specific detailed special use permits that aren't so broad, they have conditions, agreements attached to them. Is that an option here or that is not an option here?

MR. McCONVILLE: The planning commission, as I've said many times in the past, has broad discretion to condition approvals as they deem fit. So I leave that to the discretion of the planning commission. I do want to make [146] sure the planning commission members are mindful of the legal standards that are set forth.

In particular, there are factors under 1274.02 that we've enumerated and the burden of proof that the applicant must meet is the clear and convincing standard, which as you know, Mr. Fine, is a difficult standard, but you have discretion to condition approval if you so deem fit.

MR. FINE: Also, in the past when we've considered this type of special use permit, we have reports from the city engineer, from the police department, from the fire department, have more specific plans on the part of the applicant as to exactly how the property is intending to be used.

It's the reason that we aren't -- we don't have those things. I mean, it's, you know, when we tabled Danziger, it was because of the very issue that what they presented was too informal for us to properly consider and there was no discussion about -- there was no -- the place hadn't been inspected. There were issues of concerns about granting a special use permit when, you know, we don't know what the safety [147] issues are in terms of the building. Why --

MS. HOLZHEIMER: You had an entire hour. Stop.

MR. FINE: I'm a commission member. You're a guest here.

MAYOR BRENNAN: That is out of order.

MR. FINE: You're a citizen and --

MR. COONEY: This is our city too, buddy.

MR. FINE: I'm trying to figure out what is to vote on and what's not to vote on. I have questions that need to be clarified.

MAYOR BRENNAN: Mr. Fine is within his rights to ask these questions. If there are going to be

outbursts, you're going to be removed from the meeting.

Mr. McConville --

MR. McCONVILLE: Can you repeat the question, Michael?

MR. FINE: Yeah. I don't understand why --

MR. MCCONVILLE: I remember. The department heads are here this evening. Mr. Ciuni is here, Chief Perko is here, Chief Rogers is here. Again, the floor is yours.

[148]

If you'd like to ask any of the department heads as to whether they have any particular concerns, you're free to do so. I would agree with you there are defects in the application. There is no site plan. There has been no discussion about area variances.

I certainly think that if planning commission members are so disposed to approve a special use permit, they would be, I believe, obligated to seek those items first, so you would be entertaining a tabling; however, the motions that emanate from the floor by planning commission members are, you know, within the purview of planning commission members.

So it's up to you as a group to decide whether there's a motion and a second for any particular motion you may make. As you know, you can make a motion to deny, a motion to approve, a motion to

approve with conditions, a motion to table. Those are your options.

MR. FINE: I would then make a motion to table that the applicant come back with a more thorough presentation as to site plan with the review from the fire department, inspection of the building, what needs to be done, whether it's [149] a realistic option from (Zoom audio interference) and if he's going to ask for a special use permit. Then it should be what the applicant has articulated, what the applicant wants to do.

The building is not reflected in terms of the functional special use permit. I think that the applicant (Zoom audio interference) much better relationship with his neighbors and their understanding if you came back with a more specific request as to what he wanted and what was (Zoom audio interference.)

I would suggest tabling it. That's my motion.

MAYOR BRENNAN: Motion to table by Mr. Fine. Is there a second?

A VOICE: How many people are on the planning commission?

MAYOR BRENNAN: You are not one of them, so please --

A VOICE: How many people are on the planning commission?

MAYOR BRENNAN: Five of us on the planning commission. Of the five of us.

A VOICE: You want to table it? This is a waste of time --

[150]

MAYOR BRENNAN: I'm sorry, you're out of order. I've just muted you. If you do that again, I'll remove you from the meeting.

Is there a second to this motion?

MS. URBAN: I'm tempting to second. Partly watching the clock, I feel I need more time with the rest of the planning commission and with other city officials to talk about this.

There's, you know, on one hand I have immense respect for concerns of neighbors when it comes to an issue that comes before us. On the other hand, there was a noticeable difference from what I heard was the intended use and what I heard from residents about what their concerns were.

So I feel like there's too much to discuss here to try to wrap it up in the next four minutes. I'd be interested in hearing from other city departments and city officials.

MR. SIEMBORSKI: April, I understand what you're saying. I make a motion to dismiss this. As I said, 195 people signed against this and if the

applicant appreciated this community, he would understand that.

MR. McCONVILLE: As a point of order, [151] we're bound --

MR. SIEMBORSKI: Luke, I'm off this call in three minutes. Let's figure it out.

MR. McCONVILLE: April, are you seconding or are you not seconding?

MAYOR BRENNAN: April, did you second? I'm not (Zoom audio interference.)

MR. MCCONVILLE: Are you seconding or are you not seconding?

MS. URBAN: I'll second it. I'm seconding it.

MAYOR BRENNAN: Very good. We have a motion to second. Is there any discussion?

MR. McCONVILLE: Call the question.

MR. RACH: I'll just discuss one thing as architect and the last thing we heard, I requested drawings of the building so we had a clear understanding of the space in which they plan on using. This is a shul. The number of exits, these were important things for me to make a decision as to how many people could fit in that space properly and by code.

So I would like to see, as Mr. Fine suggests, more drawings of the building and the site plans so we have

a clearer understanding of [152] how the space is to be used.

From my professional standpoint, that is what I'm requesting for the next meeting.

A VOICE: One point I'd like to notate --

MAYOR BRENNAN: I'm sorry, you're not on the planning commission. I'm sorry, we cannot have outbursts from the gallery.

So we have a motion. We have a second. We had some discussion. Is there any further discussion before we take a vote for motion on the table?

If there is nothing further, Ms. Thomas, will you call the role on the motion to table?

MS. THOMAS: Mayor Brennan?

MAYOR BRENNAN: No.

MS. THOMAS: Ms. Urban?

MS. URBAN: Yes.

MS. THOMAS: Mr. Siemborski?

MR. SIEMBORSKI: No.

MS. THOMAS: Mr. Fine?

MR. FINE: Yes.

MS. THOMAS: Mr. Rach?

MR. RACH: Yes.

MAYOR BRENNAN: Okay. The yeses have it. The item is tabled until the next meeting of [153] the planning commission. So --

A VOICE: You people should have done your homework. Embarrassing.

MS. HOLZHEIMER: Gross, gross. I hope you don't get reelected. I hope you don't get reelected. I hope you don't. Disgust --

(Zoom audio interference.)

MAYOR BRENNAN: Is there a motion to adjourn?

There's a motion by Mr. Fine to adjourn.

Is there a second?

MR. RACH: Second.

MAYOR BRENNAN: Ms. Thomas, would you please call the role.

MS. THOMAS: Mayor Brennan?

MAYOR BRENNAN: Yes.

MS. THOMAS: Ms. Urban?

MAYOR BRENNAN: I think she still may be muted.

MS. THOMAS: Mr. Siemborski?

MAYOR BRENNAN: Yes, here we go. Mr. Siemborski?

MR. SIEMBORSKI: We were muted, Mayor. Yes, adjourn.

MAYOR BRENNAN: Okay.

[154]

MS. THOMAS: Ms. Urban?

MAYOR BRENNAN: I have lost Ms. Urban.

MS. THOMAS: Mr. Fine?

MR. FINE: Yes.

MS. THOMAS: Mr. Rach?

MR. RACH: Yes.

MAYOR BRENNAN: We are adjourned. Next regular meeting is the first Thursday of March, which -- I'm sorry, this is the first Thursday of March. The first Thursday of April, so whatever day that is. We will be back then.

MR. RACH: Mayor, I'm looking at the calendar. I feel horrible, but I'm actually not in town that Thursday. If I could request it be on a second Thursday?

MAYOR BRENNAN: We'll see what we can do.

MR. FINE: First Thursday, is that April 1st?

MR. RACH: Yeah.

MR. FINE: That's during Passover.

MAYOR BRENNAN: We won't be holding the meeting during passover. Okay. We will schedule our meeting forthwith.

Thank you. We are adjourned for the [155] evening. Thank you, everyone, for your patience. Good night.

(Zoom hearing concluded.)

EXHIBIT 17

UNIVHTS000032

Letter in opposition #2

February 22, 2021

From: Julie and Joe Ulrich
Sent: Monday, February 22, 2021 7:04 PM EST
To: Michael Brennan; mayor@universityheights.com
Subject: Concerned Citizen - 2343 Miramar Blvd
Attachments: 1614032362818blob.jpg, 1614032438204blob.jpg

Hello Mr. Mayor.

I'm writing to inform you of my concern regarding our Miramar Blvd neighborhood. As I'm sure you are aware, there are a number of voices from our community sharing similar thoughts. We purchased our home on this street in 2006 and my in-laws have been here since 1984. It was because of the closeness to family and Gesu school that we decided to raise our family here. Our two oldest sons now attend John Carroll University.

My concern is over the proposed special use permit for 2343 Miramar Blvd as a place of religious assembly. In the mail today, we received the notification of this agenda item at the next Planning Commission Meeting on Thursday, March 4, 2021 at 7:00pm. I

firmly stand against this proposal.

This section of our street is lined with one family homes and is not zoned for houses of worship. Contrary to what has been said during numerous University Heights Board of Zoning Appeals meetings, I find it difficult to believe the owner's stated intentions of the additions being only for their family's use.

A question I would like to ask is, "If the city approves the special use permit, does that exclude them from paying property taxes?" I do not know the answer, but would be curious to find out. If this is indeed the case, I also believe it to be a strong motivator for the request of a special use permit.

Per our city's Website, we are The City of Beautiful Homes and one of the three longest running Tree City USA cities in Cuyahoga County. I've attached 'before' and 'after' pictures of 2343 Miramar Blvd. Even though one is from the summer and the other from the winter, I believe it is clearly evident that the landscape and structure of the home has changed dramatically in only two years.

I'll leave with a quote from your letter, " As you look around our city today, you will see why University Heights is So Much More than Home."

Thank you for your time and consideration in this matter.

Joseph Ulrich
Concerned Citizen

JA-275

EXHIBIT 19

UNIVHTS001377

Post meeting deliberations email

March 9, 2021

From: Michael Fine <mfine@ohioconsumerlawyer.com>
Sent: Tuesday, March 9, 2021 9:40 AM
To: April Urban <april.h.urban@gmail.com>
Cc: Paul Siemborski <psiemborski@dlrgroup.com>; Michael Brennan <MDB@universityheights.com>; Kelly Thomas <kthomas@universityheights.com>; John Rach <jrach@universityheights.com>; Luke McConville <mcconville@nicola.com>
Subject: RE: Planning Commission Meeting tonight (March 4, 2021)

Dear All,

Thank you, April, for your thoughts. I concur.

As I wrote previously, a tension exists regarding at what point does a social gathering become a house of worship.

If someone is going to come to Planning for a special use permit, I believe that they must come with architectural plans; a fire inspection with maximum capacity findings; the results of a police review with findings regarding traffic patterns and parking; and the results of an inspection for compliance with State building codes that evidences whether the intended

use is even feasible. If an applicant cannot get past these hurdles, **which exist for Denciger, Grand, and other existing/planned situation**, then zoning, use permits, and fair use considerations are the least of their issues—and the City can avoid to the resulting political storm.

If a house is going to be a place of assembly, then the applicant needs to fairly address parking, traffic, capacity, fire & safety, as well as consideration of the neighbors and character of the neighborhood. If a person is just going to have a social gathering, this is unnecessary.

The Grand application is problematic because he seems to want to have it both ways, which is untenable—from all perspectives.

Again, I think that Grand and the community would be best served if he voluntarily withdraws his application, and takes some time to reconcile with his neighbors and to clarify his intentions. In the meantime, he would be wise to avoid the appearance of proceeding with a "shul" as a opposed to a social gathering—lest he cause further angst his neighbors and have the police called to address a nuisance.

Michael Fine

From: April Urban <april.h.urban@gmail.com>
Sent: Tuesday, March 9, 2021 8:47 AM
To: Michael Fine <mfine@ohioconsumerlawyer.com>
Cc: Paul Siemborski <psiemborski@dlrgroup.com>; Michael Brennan <MDB@universityheights.com>; Kelly Thomas <kthomas@universityheights.com>;

John Rach <jrach@universityheights.com>; Luke McConville Forward <meconville@nicola.com>
Subject: Re: Planning Commission Meeting tonight (March 4, 2021)

All,

I hope it is productive to continue our discussion through email. I humbly present my thoughts on the issue. This email is longer than is desirable, but it is a complicated issue. Please know my intentions are merely to help bring about resolution to the issue.

I believe it would have been imprudent to dismiss the application presented and give the reason for dismissal as the public testimony only. I firmly believe that course of action would have toed the line of violating fair housing law, and would have put the city in a bad position.

However, at this moment, I do think the application should be dismissed. I think the reason for dismissal should be that the use presented (the applicant proposed gathing 10-15 friends at his house once a week, as well as three times a year on the high holidays, for prayer) does not require a special use permit. We don't require other social gatherings occurring in a private home to have a special use permit. If the applicant's intentions are truly within the bounds they describe, why would he need a special use permit? If the application is dismissed, and there's no mention of how the proposed use would not require a special permit, do neighbors interpret this action as a right to police every guest and goings-on

at Mr. Grand's home? If it is mentioned, does Mr. Grand interpret it as a right to do whatever he wants? Can it be made clear that private gatherings in one's home are permissible, but if they occur at a frequency or size that is disruptive to the neighbors, more akin to a house of assembly than a private residence, actions would need to be taken?

The community outlines a long list of wrong-doings of the applicant regarding additions to his home, which seem to have generated considerable ill-will toward him and the house. In addition, it has raised suspicion, perhaps correctly, that the addition was built for the purpose of becoming a Shul. The community expresses that, because of these negative experiences, that Mr. Grand can not be trusted at his word, and though he says only 10-15 people will be attending worship at his house, he can not be trusted and the crowd will grow to a disruptive size.

In regards to the addition, it seems to me that we do not have any authority to impose any changes. This is unfortunate and I hope the appropriate department at the city is working with the group on the issues and concerns, but I am uncertain what we can do about it. Before the meeting, I drove by the house and I wondered if in this case there could be anything like a "clean hands" docket applied. The applicant could not apply for a special use permit while having outstanding code issues. Is this the case? Are the issues with the house open code violations? Ultimately, even if this was relevant, it seems like it would open the door to him applying again once issues were remedied.

The concerns about gathering growing to a disruptive size seem to be at the heart of this issue. I am uncertain what to do with these concerns given they are concerns about a future problem. I believe we were to take the applicant at his word as he was under oath, and he maintained a smaller group size. If the application is dismissed, and it is stated that reasonably sized gatherings can occur in private homes, what is the mechanism for enforcement if gatherings get out-of-hand in size or frequency? My guess is the cease and desist order and other nuisance property mechanisms. Given he is an owner-occupant, I think these could be reasonably effective if the situation worsened. But how can we tell when activity is truly a nuisance to neighbors from when neighbors are being unneighborly because of their differences?

I am not certain whether dismissal for this reason (no need for special use permit) would ease community tensions or concerns, and I do recognize that it is important to do so. At this point, I think it's important to recognize the discord between the current state of the issue (the applicant maintains the space has not been used as a Shul to-date, and we heard no testimony otherwise), the proposed use, and community concerns expressed in materials shared and during our meeting. It is also important to recognize and call-out anti-semetic rhetoric and sentiment that goes against fair housing laws. I feel like that's the first step in moving towards a more productive conversation and ultimately easing community concerns. I could be wrong about that, but in the least, it helped me separate the sets of concerns into useful categories.

Problematic community rhetoric:
"I am not Jewish and I do not want our neighborhood labeled as Jewish."–Letter from Maureen Lanza
Repeated stated concerns about property tax exemption, especially after it has been explained these concerns are irrelevant
Repeated concerns about the Shul being a profit-making commercial business
Concerns about community "change"
Claims of long-standing community ownership
Statements that the applicant should "move somewhere else" if inconvenienced
Discordant community concerns:
Don't want parking cluttering up neighborhood–applicant maintains parking isn't an issue because of Jewish practice
Concerns about increased foot traffic–honestly I just can't imagine finding 10 more people walking through my neighborhood to be disruptive to my life

It seemed to me that most of the legitimate concerns are only relevant to a scenario in the future where the Shul is closer to a house of assembly than a small private gathering. Again, I'm not sure how to rectify that community concerns are relevant only in a future scenario where the applicant is being intentionally misleading.

Here is additional information from the Department of Justice and HUD on how local land use and zoning code relate to Fair Housing Laws:
https://www.justice.gov/opa/file/912366/download

I hope this is helpful to our discussion. Does the city have other resources it can employ in bringing this conflict to an amicable resolution? A savvy council person willing to meet with Mr. Grand and other noticeable leaders of the opposition?

April

On Fri, Mar 5, 2021 at 2:01 PM Michael Fine <mfine@ohioconsumerlawyer.com> wrote:

> Mayor Brenan and Attorney McConville,
>
> I respectfully disagree with my colleague, Mr. Siemborski, who I respect tremendously.
>
> While I was not particularly happy with last night's format, and I felt that the matter could have been handled differently, I understand why the format was used. I think, however, that everyone should be clear that some matter, especially heated proposals, may take more than 3 hours to address, and it is not fair to the Commission or the Applicant to force a resolution more quickly. Some issues may need to be split over a number of days. For example, when we addressed the CH-UH high school temporary use of land in UH, we needed 3 (or 4) meetings to review the project.
>
> I would say, however, that the applicant last night was not properly prepared to come before the board. His proposal was not clear, and he did not have the proper supporting materials. This happened with Denziger as well, and this situation should be avoided, if possible, in the future. Still, all citizens

have the right to present their petitions, and we as Commissioners have an obligation to give each a proper hearing.

I also disagree that the number of petitions is in any way dispositive of this or any other proposal. Petitions are simply one piece of evidence to consider and to be given due weight.

Re. last night, the more significant issue seems to be that Mr. Grand has created a tremendous amount ill-will in the community. As a result, I do not think that community members believe that he is speaking truthfully, and they do not trust his intentions. For this reason, I believe that he would be better served by withdrawing his application and formulating a new strategy and with clearly articulated goals.

As an aside, I do not know why anyone would need a special use permit to invited 10 friends to pray with them Friday night and Saturday morning in their living room. I also do not see how this would be different then my having friends over regularly for parties. There is no restriction on how much I can entertain. However, if I reconfigure my house for 10 or more people to come over regularly, I give my group a name, and I hire a prayer leader, that may be qualitatively different. It also raises suspicions that I am not really intending to limit my parties/meetings to Fri night and Sat day. However, there is a spectrum here, and I think that needs to be clarified.

Mr. Grand's problem is that he testified that all he wanted to accomplish was the former, but his actions

speak to something further along the spectrum toward a real house of prayer. A real house of prayer does have many of the issues and concerns raised by the objectors last night, such as lighting, traffic, and parking, which Mr. Grand sought to avoid addressing. Hence, the tension leading to last night.

My thought and observations,

Respectfully,

Michael

From: Paul Siemborski <psiemborski@DLRGROUP.com>
Sent: Friday, March 5, 2021 7:33 AM
To: April Urban <april.h.urban@gmail.com>
Cc: Michael Brennan <MDB@universityheights.com>; Kelly Thomas <kthomas@universityheights.com>; John Rach <jrach@universityheights.com>; Michael Fine <mfine@ohioconsumerlawyer.com>; Luke McConville Foward <meconville@nicola.com>
Subject: Re: Planning Commission Meeting tonight (March 4, 2021)

I felt we handled the meeting last night poorly. Never had we allowed such a format. And I was appalled at the Grand standing and showmanship we allowed between the applicant and his attorney. I am just an Architect. That we turned this into a court proceeding was wrong in my opinion. Luke, you should put time limits on presentations. 195 petitions against this and we treated those against this request with lip service

and we subjected them to cross examination. Unbelievable.

As I said, I am disappointed that this even came to us. In my opinion we need to cut back on all the legal wrangling citing code section by code section and simply say up front: this is not allowed on Miramar. If you want to consider such a place of assembly there are streets where you can petition for special use.

We must change the format of what happened last otherwise, otherwise I will not be involved.

Paul

Sent from my iPhone

On Mar 5, 2021, at 7:10 AM, April Urban <april.h.urban@gmail.com> wrote:

-257 ?
I would be happy to meet again as soon as possible to expedite resolution to this matter. Most of my questions are for Mr. McConville. If appropriate, I'm happy to email or call.

On Fri, Mar 5, 2021, 12:21 AM Michael Brennan <MDB@universityheights.com> wrote:

This message was sent from the City of University Heights.

Regards,
Mayor Michael Dylan Brennan
sent from my mobile device

---------- Forwarded message ----------
From: Josiah Sell <josiahsell@gmail.com>
Date: Mar 4, 2021 11:30 PM
Subject: Planning Commission Meeting tonight (March 4, 2021)
To: Michael Brennan <MDB@universityheights.com>,Michele Weiss <mweiss@ universityheights.com>,Saundra Berry <sberry@universityheights>,Barbara Blankfeld <bblankfeld@universityheights.com>,Phillip Ertel <pertel@universityheights.com>,Justin Gould <jgould@universityheights.com>,Susan Pardee <spardee@ universityheights.com>,John Rach <jrach@universityheights.com>,Luke McConville <lmcconville@universityheights.com>,Brendan Zak <bzak@universityheights.com>,Mike Cook <mcook@universityheights.com>,Susan Drucker <sdrucker@universityheights.com>,Dennis Kennedy <DKennedy@ universityheights.com>,Rita Drew <rdrew@universityheights.com>,Denise Balint <dbalint@ universityheights.com>
Cc:

Mr. Mayor, et. al:

The adjournment of tonight's meeting is only causing more angst in the community. The applicant (Mr. Grand) clearly failed on all standards to justify the need for approval of the special use permit. The applicant, his attorney, and everyone attending the meeting could easily understand the applicant failed and should be denied the special use permit. Mr. Cooney and Mr. Kluznik's arguments were spot on. Mr. Grand failed on all fronts.

In the interest of time, I didn't speak tonight. However, I am 100% opposed to granting the special use permit and I would have said: I like to walk to church also, which is why my first house in University Heights was at 2466 Glendon Road (directly across from Gesu). My family outgrew that house, so I moved over to Carroll Boulevard. Now, I have a little bit of a longer walk. However, I'm not about to hire a priest and open a church in my house on Carroll Blvd., that would be ridiculous as it would anger my neighbors to the hilt. If Mr. Grand would like a shorter walk, then I advise him to buy a house closer to a shul or synagogue, not disrupt the fabric of the community. Please just deny this special use permit and he can continue to play his drums in his "sound proof" room. I have no sympathy for him putting the cart before the horse - building and planning for this before he received permission. Residents testified under oath tonight that Mr. Grand has been dishonest about his intentions for years. Those facts should not be overlooked.

Please forward to all planning commission members since their emails are not readily available on the city's website.

Sincerely,

Josiah Sell
4148 Carroll Blvd
University Heights, OH 44118

EXHIBIT 20

UNIVHTS000604

Grand Letter of Clarity

March 2, 2021

3/2/2021

To the University Heights Community, and my neighbors on Miramar:

I, Danny Grand, am looking to have an informal prayer group for services in my home on the Jewish Sabbath and High Holidays. Though I wasn't viewing this informal prayer group as a formal synagogue, the city informed me that zoning ordinances allowed for a 'synagogue' or 'shul' (same word in Yiddish) with a "Special Use Permit". Upon being notified, I immediately abided – I have never had anyone come over to.my house to pray.

I send this letter with the hope that it might clear up any ambiguity my actions may have caused based on feedback that some of my Miramar neighbors gave me, and from the letter sent to me by Councilman Ertel. Please allow me this opportunity to do so:

We pray 3-4 times daily, every day, all year round. On most of these days, my family and I are able to drive to the closest formal synagogue, which is about a mile away. That may not seem like much, but on the Jewish Sabbath and High Holidays, when driving is not permitted, my family and I must walk back and

forth 4-6 times over a 24 hour period. That's a lot of walking, especially with 3 young kids, none over the age of 5, or severe weather. I know there are also a number of Jewish families in my area who are in the same boat as me.

A bonafide shul is a community facility that is always open to the public, where people can come and go as they please, and host their own private religious events like bar mitzvahs and weddings. My home is not a formal synagogue in that sense of the word. Not at all. People cannot come and as they please, it really is just invite-only for guests, to come pray in my home for a few hours or less on the Jewish Sabbath and High Holidays. Nothing more.

A few quick points:

1) My house on 2343 Miramar Blvd. is not being turned into a shul or a synagogue or a Torah study center. That is not what I am looking for at all, just an informal prayer group on the Jewish Sabbath and High Holidays when we Jews can't drive cars.

2) We will be preserving the quiet and peaceful character of the block and neighborhood, the very character that my family has appreciated since before even moving into our home. This is the "city of beautiful homes" and it's important for that to be true outside as well as inside the home.

3) We will not be making any discernible noise, not putting up any signs, not changing the place one bit – in fact, the room where I intend the prayer group to

be was soundproofed during construction because I used it as a music room!

4) We have no thoughts of making a claim of property tax exemption on religious grounds. We moved to University Heights because we love the neighborhood and will continue to support the city with our tax dollars for our entire property.

5) We are not proposing a "Shul", though we are seeking permission from the city to have a prayer group in our home, in one room, it's still 100% my house, and anyone on the block who has been to it, which I encourage anyone to come by to observe, can attest to that.

6) There will not be excessive vehicular traffic caused by this at all, as we can't drive on Sabbath and Holidays. No one besides my family will be parking in my driveway or in front of my house on the street. It's just not our intention to clutter the street with visiting cars.

7) There won't be any noticeable pedestrian traffic. People will be arriving at various times within a few small windows during the day.

8) There will not be any special or excessive lighting.

9) There are no 'hours of operation', this is not a public facility, it's my house, to get in you've got to get past my wife…

10) As far as land coverage requirements, we are not changing the shape or appearance of our fully built

home, at the end of the day this our house, we're just living in it.

11) A Special Use Permit is not something that can be transferred, or that lasts after the building is sold to someone else, or does not 'rezone' the area so that now anyone else can open up 'synagogues' wherever they want.

12) On the topic of potential declining property values, I am happy to state that our next door neighbor Carol Nueman's house has broken a record for the highest priced sale on Miramar, at over $350,000 on a single lot, I think that's great for her and for our block.

13) We respect everyone's right to privacy and quiet enjoyment on and of their property.

14) If, after receiving a Special Use Permit, any issues or concerns arise, I pledge to address and work with each of you to remedy any problem, I which I do not foresee happening, we'll be real quiet and respectful.

In all earnestness, we never intended to cause our neighbors to be concerned that we were aiming to change our block. We have no desire to operate a bonafide Synagogue (English) Shul (in Yiddish) or Beit Hakeneset (Hebrew) out of our home. I used the word loosely, in a private email to a handful of friends. One of the people's wives thought they were being helpful and shared the message to a WhatsApp group…

If you have any questions or concerns or would like to talk about this, please feel free to call me at [REDACTED], or email me at danieljoshua@me.com, or come on by the house and talk.

Thank you and God Bless,

R' Daniel Grand & Rachel Grand

EXHIBIT 27

Rosenfeld email to Grand

March 17, 2021

Sent at: 3/17/2021 10:46:52 AM

RE: Special Planning Commission Meeting
From: Michael Brennan <mdb@universityheights.com>
To: Ethan Rosenfeld <ethanleerosenfeld@gmail.com>, John Rach <jrach@universityheights.com>, Daniel J. Grand <danieljoshua@me.com>
Cc: Kelly Thomas <kthomas@universityheights.com>

This message was sent from the City of University Heights.

It is not a matter of me deciding, as you seem to be characterizing it. Special Use permit applications proceedings are quasi-judicial. As for what you advised him as his counsel, that is between you and your client.

Michael Dylan Brennan | Mayor
City of University Heights

From: Ethan Rosenfeld <ethanleerosenfeld@gmail.com>
Sent: Wednesday, March 17, 2021 10:39 AM
To: Michael Brennan

<MDB@universityheights.com>; John Rach <jrach@universityheights.com>; Daniel J. Grand <danieljoshua@me.com>
Cc: Kelly Thomas <kthomas@universityheights.com>
Subject: Re: Special Planning Commission Meeting

Was Danny advised that you had decided to turn the first meeting into a quasi-judicial format?

On 3/17/2021 10:03 AM, Michael Brennan wrote:

This message was sent from the City of University Heights.

Mr. Grand and Mr. Rosenfeld:

At the meeting of March 4, 2021, the Planning Commission tabled the matter without discussion or deliberation, even though you had closed your case as applicant. Since the meeting, individual members have expressed their desire to discuss what has been presented. This discussion is not to be done as a group outside of the confines of a public meeting.

We have called the public meeting in order to allow the Planning Commission to take the application from the table for discussion among the board members and city administration officials. Any additional testimony or additional evidence/materials for or against the application is closed for purposes this meeting. As such, there is no expectation that you prepare or submit additional materials before or at the March 23 special meeting.

I suggest applicant be present to answer questions of commission members pertaining to applicant's previous testimony. Notwithstanding that, neither are you expected to submit additional materials before next Tuesday's meeting, nor will they be considered on Tuesday if you do.

The Planning Commission may discuss whether additional materials are needed to make the decision on the merits. If such materials are deemed necessary, you will be given sufficient time to provide them.

I hope this clarifies the proceedings for next week.

Michael Dylan Brennan | Mayor
City of University Heights

From: Ethan Rosenfeld <ethanleerosenfeld@gmail.com>
Sent: Wednesday, March 17, 2021 12:39 AM
To: John Rach <jrach@universityheights.com>; Daniel J. Grand <danieljoshua@me.com>
Cc: Michael Brennan <MDB@universityheights.com>; Kelly Thomas <kthomas@universityheights.com>
Subject: Re: Special Planning Commission Meeting

Thanks, John.

Danny hoped that the interval between the first hearing and this hearing would afford him the opportunity to confer with the City to draw up an application that makes the best sense here. But I understand from him that he's had a difficult time

obtaining this insight. As the Commission indicated at the first hearing, the City ordinarily provides such support (which, of course, is not to say this equates to ultimate support of the application itself).

Please reach out to him, or put him in touch with the correct contacts, so that he might submit something more tailored to his actual needs and intent. His initial application was rushed under the circumstances in which it was requested and, in any event, he was not aware of the City's custom to provide this support.

To avoid unnecessary delays and conflict, the latter of which I wish we could do without altogether in favor of a more collaborative approach between City and resident, there is a strong need here for both sides to have absolute clarity with the other. I am generally concerned by how Danny was instructed to apply for a special use permit or else to forego his contemplated use of a room in his house for communal prayer, point blank by City officials and counsel, none of whom sought to have preliminary conversation *with* him as to just what was to take place at his residence. Had it, the City may well have concluded from good faith, non-adversarial conversation that Danny publicly phrased his contemplated use more loftily than he actually imagined his use would be, and that the use was outside the scope of a special use permit. By my view, the present situation has culminated from one misconception built atop another of Danny's behavior and intent, including his phrasing in the

initial application, but Danny wants to demystify his end of the equation and would sincerely appreciate if the City would do the same.

Thank you,

Ethan

On 3/16/2021 8:35 PM, John Rach wrote:

This message was sent from the City of University Heights.

If I could weigh in on what I'm looking for…

If you're requesting a space to be a place of worship, we have to ensure that it's safe for the inhabitants. That being said, we would need floor plans from an architect indicating the allowable size by building code, the allowable number of exits, etc. We would also need a site plan from the architect indicating the space to be used for assembly, entrance/exit, parking as applicable, setback requirements, property lines, etc.

This is exactly and consistent with what I requested from the applicants on Churchill.

John P. Rach, AIA
City of University Heights Councilman

On Mar 16, 2021, at 7:42 PM, Daniel J. Grand <danieljoshua@me.com> wrote:

As you know the hearing has been accelerated, I have still not been provided clear requests from the city planning commission - I have yet to be put in touch with the proper personnel including the city engineer, the fire department chief, the police chief, I thought Councilman Rach as an architect wanted to see the space, I really don't know what the city is expecting, and I have requested it in writing, meaning what they want me to do prior to the next meeting…. This was the entire basis for the decision to table, was it not?

To date, I have not been given the contact information, or a clear list of requested items, and the added acceleration makes me feel as though I should request a continuance, so that is what I am doing, if I do not have the requested information by the end of the day tomorrow, I will request a continuance. Thank you.

Mr. Grand

On 3/12/2021 12:41:22 PM, Michael Brennan <mdb@universityheights.com> wrote:

This message was sent from the City of University Heights.

Mr. Grand,

As you await a summary from Mrs. Thomas, please be advised that the proceedings are available on the city's YouTube channel, and are available for your review.

https://www.youtube.com/watch?v=D5kP12aBUUY&t=281s

Michael Dylan Brennan | Mayor
City of University Heights

From: Kelly Thomas <kthomas@universityheights.com>
Sent: Friday, March 12, 2021 10:05 AM
To: Daniel J. Grand <danieljoshua@me.com>; Michael Brennan <MDB@universityheights.com>; John Rach <jrach@universityheights.com>;
Subject: RE: Special Planning Commission Meeting

This message was sent from the City of University Heights.

Mr. Grand I will try to review the recording as well to provide you with the Planning Commission motion early next week.

Kelly M. Thomas MMC | Clerk of Council
City of University Heights

From: Daniel J. Grand <danieljoshua@me.com>
Sent: Thursday, March 11, 2021 5:48 PM
To: Kelly Thomas <kthomas@universityheights.com>; Michael Brennan <MDB@universityheights.com>; John Rach <jrach@universityheights.com>
Subject: Re: Special Planning Commission Meeting

Is this a public meeting, or a private one? Also, can we please have a detailed summary of the actual request made by the Planning Commission members so we can have it prepared for them ahead of time…. Thank you as always -

Daniel Grand

On 3/11/2021 5:01:31 PM, Kelly Thomas <kthomas@universityheights.com> wrote:

This message was sent from the City of University Heights.

Mr. Grand:

The University Heights Planning Commission will hold a Special Meeting on Tuesday, March 23 at 7pm regarding the Special Use Permit Application to use 2343 Miramar as a Planned Operation of Shul/Place of Religious Assembly. Kelly Thomas

SPECIAL PLANNING COMMISSION MEETING
Held via ZOOM

7:00 P.M. MEETING TUESDAY, MARCH 23, 2021

Join Zoom Meeting

https://us02web.zoom.us/j/81104679975?pwd=NkVYaDBUNUpBcFNRMHlXcWtkLzlmdz09

Meeting ID: 811 0467 9975

Passcode: 444705

Dial by your location

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 929 205 6099 US (New York)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 669 900 6833 US (San Jose)

Meeting ID: 811 0467 9975

Passcode: 444705

AGENDA

1. CALL TO ORDER

2. ROLL CALL

3. AGENDA ITEM(S):

A. **Recommendation to City Council Regarding a Special Use Permit Application by Mr. Daniel Grand to use 2343 Miramar Blvd. as a Planned Operation of Shul/Place of Religious Assembly**

5. ADJOURNMENT

Kelly M. Thomas MMC | Clerk of Council
City of University Heights

EXHIBIT 29

Email to Police Uniform Division

March 23, 2021

Anne Botsko

From: Dustin Rogers
Sent: Thursday, July 29, 2021 10:24 AM
To: Anne Botsko
Subject: FW: 2343 Miramar

This message was sent from the City of University Heights.

From: Mark McArtor
Sent: Tuesday, March 23, 2021 10:58 AM
To: Adam Lipply <alipply@universityheights.com>; Brandon Manley <bmanley@universityheights.com>; Bryan Lombardo <blombardo@universityheights.com>; Charles Darrah <cdarrah@universityheights.com>; Christopher Ferkul <cferkul@universityheights.com>; Christopher Hovanetz <chovanetz@universityheights.com>; Christopher Russo <crusso@universityheights.com>; Christopher York <cyork@universityheights.com>; Dorletha Dixon-Pitts <dpitts@universityheights.com>; Greg Lueders <glueders@universityheights.com>; Jermaine Smith <jsmith@universityheights.com>; Joseph Huffman <JHuffman@universityheights.com>; Joshua Stanton <jstanton@universityheights.com>; Kevin Ryan <kryan@universityheights.com>; Marc

Imbrogno <mimbrogno@universityheights.com>; Mark Delpra <mdelpra@universityheights.com>; Martin Iser <MIser@universityheights.com>; Michael Ferrara <mferrara@universityheights.com>; Michael Majoros <mmajoros@universltyheights.com>; Robert Miller <rmiller@universityheights.com>; Steven Williams <swilliams@universityheights.com>; Todd Kinley <tkinley@universityheights.com>
Cc: Dustin Rogers <drogers@universityheights.com>
Subject: 2343 Miramar

This message was sent from the City of University Heights.

Uniform Div.,

As part of your patrols, please make frequent drive-bys at 2343 Miramar Blvd. for violations to ***452.03 PROHIBITED STANDING OR PARKING PLACES*** of parking on landscaped surfaces. If violations are observed, citations will be "the preferred course of action". Also be aware, there is a great deal of contention between this address and the surrounding neighbors since the 2343 resident applied to the Planning Commission for approval to operate a Schul. If you observe or respond to the location for parking or noise complaints, be sure to log the activity in CAD.

Thanks,

Lt. Mark McArtor
University Heights Police

JA-304

EXHIBIT 30

UNIVHTS000838

Email from Police to Brennan

March 25, 2021

From: Michael Brennan <MDB@universityheights.com>
Sent time: 03/26/2021 12:04:41 PM
To: Silas Brown <sbrown@universityheights.com>
Subject: RE: Garbage at 2343 Miramar Blvd

This message was sent from the City of University Heights.

[ATTORNEY CLIENT REDACTED] Send me a copy and let me know when it has been done. See you at 1pm.

Michael Dylan Brennan | Mayor
City of University Heights

From: Michael Brennan
Sent: Friday, March 26, 2021 8:33 AM
To: Silas Brown <sbrown@universityheights.com>
Subject: FW: Garbage at 2343 Miramar Blvd

Also, prepare it now, but wait till this afternoon to send/serve it. I am meeting with Stephanie Scalise later this morning to discuss the situation. Possible we might change course after our chat at 11:45 this morning.

Michael Dylan Brennan | Mayor
City of University Heights

From: Luke McConville <mcconville@nicola.com>
Sent: Thursday, March 25, 2021 10:59 AM
To: Dustin Rogers <drogers@universityheights.com>; Michael Brennan <MDB@universityheights.com>; Mark McArtor <mmcartor@universityheights.com>
Cc: Fred White <fwhite@safebuilt.com>; Stephanie Scalise <SScalise@universityheights.com>
Subject: RE: Garbage at 2343 Miramar Blvd

[ATTORNEY CLIENT REDACTED]

Luke

Luke F. McConville
Attorney at Law
Nicola, Gudbranson & Cooper, LLC
ATTORNEYS AT LAW

From: Dustin Rogers <drogers@universityheights.com>
Sent: Thursday, March 25, 2021 10:30 AM
To: Michael Brennan <MDB@universityheights.com>; Mark McArtor <mmcartor@universityheights.com>
Cc: Fred White <fwhite@safebuilt.com>; Luke McConville <mcconville@nicola.com>
Subject: RE: Garbage at 2343 Miramar Blvd

This message was sent from the City of University Heights.

Given the history of what has taken place at this property, and the involved city process in play beyond a typical patrol officers (and most PD employees') awareness, it would be my recommendation for the Building Department to take the lead on this matter going forward.

Depending on where the vehicle is illegally parked as well is a factor. According to 452.03 the PD would have jurisdiction if the vehicle is parked in the front yard; and if parked in the back yard on the grass/unauthorized surface I am assuming it would be a building/housing/zoning issue to be enforced.

452.03 PROHIBITED STANDING OR PARKING PLACES

No person shall stand or park a vehicle, except when necessary to avoid conflict with other traffic or to comply with the provisions of this Traffic Code, or while obeying the directions of a police officer or a traffic control device, in any of the following places: (a) On a sidewalk, curb or street or tree-lawn, or other landscaped area located in front of any building set-back line. This provision shall not apply to bicycles.

However, the PD will assist in any way we can to resolve this matter, to include patrol officers responding after hours to photograph/video possible evidence of a complaint/infraction. In these matters, Lt. Mark McArtor will follow up directly with Fred.

-Dustin

Dustin Rogers

Chief of Police
City of University Heights

From: Michael Brennan
Sent: Thursday, March 25, 2021 10:05 AM
To: Mark McArtor <mmcartor@universityheights.com>; Dustin Rogers <drogers@universityheights.com>
Cc: Fred White <fwhite@safebuilt.com>; Luke McConville Foward <mcconville@nicola.com>
Subject: FW: Garbage at 2343 Miramar Blvd

This message was sent from the City of University Heights.
Please see below.

It appears that Mr. Grand has laid gravel where he was denied to pour concrete. And he is parking on it. From what I understand, this is next to the actual concrete driveway (I have not driven by myself to look). It may be that it appears to be valid parking, and it may have looked that way to the officer that observed it.

Point being, if he was denied to widen his driveway, and he went ahead and poured gravel and is parking on it anyway, this cannot be allowed. The officer who went out surely doesn't know the history of the site. I'm open to solutions and alternatives here, and it appears it may be we need out building dept to notice him to remove the gravel, as well as the police cite him for parking on it.

If there is another course anyone would care to suggest, or if there is something here I am not

understanding about our ordinances, I'm open to discussion on that.

Michael Dylan Brennan | Mayor
City of University Heights

From: Vivienne Porter <vivienne.porter@yahoo.com>
Sent: Thursday, March 25, 2021 9:53 AM
To: Michael Brennan
<MDB@universityheights.com>
Subject: RE: Garbage at 2343 Miramar Blvd

There seems to be a lack of communication here. I called the non-emergency number at 7 this morning. I watched the officer drive by.

I called again 2 and 1/2 hours later. The officer called me back and said that the truck was parked on gravel so it was fine. That GRAVEL is where you denied the variance for concrete and told him to lay grass.

Honestly, he seemed to have NO IDEA at all.

Pleaser communicate once more with the Lieutenant that you mentioned.

What we just experienced was not a happy conversation! The patrolman had no idea and was quoting ordinances to us saying that the Grands are **allowed** to park on the gravel there!

On Wednesday, March 24, 2021, 12:50:40 PM EDT, Michael Brennan <mdb@universityheights.com> wrote:

This message was sent from the City of University Heights.

932-1800 is the Police non-emergency phone line. We have dispatchers standing by to take your call whenever you observe miscreant parking. You are welcome to call that line, as your parking complaint may be timely handled.

Michael Dylan Brennan | Mayor
City of University Heights

From: Vivienne Porter <vivienne.porter@yahoo.com>
Sent: Tuesday, March 23, 2021 5:09 PM
To: Michael Brennan <MDB@universityheights.com>
Subject: RE: Garbage at 2343 Miramar Blvd

FYI…

It was not an email from last month you should look for. It was a 35-page letter, which I took the time and spent the money, to make seven copies for all of you. Cost $200 and you're looking for an email? I hand-delivered all packets. Their own envelopes to Kelly Thomas.

Sent from my iPad.

On Mar 23, 2021, at 11:00 AM, Michael Brennan <mdb@universityheights.com> wrote:

-257 ? **This message was sent from the City of University Heights.**

Thank you. I've let know the lieutenant overseeing the uniform bureau to monitor the property for parking issues.

I want to acknowledge your husband's voicemail that he left as you last emailed me. I don't believe a return call is necessary to discuss this further at this time.

Michael Dylan Brennan | Mayor
City of University Heights

From: Vivienne Porter
<vivienne.porter@yahoo.com>
Sent: Tuesday, March 23, 2021 10:23 AM
To: Michael Brennan
<MDB@universityheights.com>
Subject: RE: Garbage at 2343 Miramar Blvd

2343 Miramar. Head-in parked beside the drive.

> On Mar 23, 2021, at 10:19 AM, Michael Brennan <MDB@universityheights.com> wrote:
>
> -257 ? **This message was sent from the City of University Heights.**
>
> I asked a very simple question so that I could send a police officer: where's the truck parked? We have 4,272 households in the city. I don't have the location of every denied concrete pad or music room memorized. Nor do I want to sift thru emails from last month to locate a picture among many attachments.
>
> Help me help you. Where is the truck?

Michael Dylan Brennan | Mayor
City of University Heights

From: Vivienne Porter
<vivienne.porter@yahoo.com>
Sent: Tuesday, March 23, 2021 10:14 AM
To: Michael Brennan
<MDB@universityheights.com>
Subject: Re: Garbage at 2343 Miramar Blvd

It has been there for more than a month. I asked you to cite him. Nothing happened. This is all part of our request to reinspect the construction. You asked me to hold off but enough is enough.

> On Mar 23, 2021, at 10:11 AM, Vivienne Porter <vivienne.porter@yahoo.com> wrote:
>
> -257 ?
>
> In front of the door to the 'music room'. He was denied that concrete, but for a path from the driveway to the door. I sent you pictures in my February letter.
>
> > On Mar 23, 2021, at 10:04 AM, Michael Brennan <MDB@universityheights.com> wrote:
> >
> > -257 ? **This message was sent from the City of University Heights.**
> >
> > Where is he parking his truck?
> >
> > **Michael Dylan Brennan | Mayor**
> > City of University Heights

From: Vivienne Porter
<vivienne.porter@yahoo.com>
Sent: Tuesday, March 23, 2021 9:43 AM
To: Michael Brennan
<MDB@universityheights.com>
Subject: Re: Garbage at 2343 Miramar Blvd

Thank you. The bags are being removed. Now we are left wondering about why, more than a month after my first complaint regarding this issue (February letter), Danny Grand continues to illegally park his truck on the area where he was DENIED (last summer) the variance to lay concrete. He parks on the landscaping (if there was landscaping). Let's just say he is NOT parking on concrete.

It seems that it might be appropriate to send someone out (daily) about this issue!

City ordinances indicate this is illegal -- and that residents will also be cited daily.

The Porters

452.03 PROHIBITED STANDING OR PARKING **PLACES.**

No person shall stand or park a vehicle, except when necessary to avoid conflict with other traffic or to comply with the provisions of this Traffic Code, or while obeying the directions of a police officer or a traffic control device, in any of the following places:

(a) On a sidewalk, curb or street or tree-lawn, or other **landscaped area located in front of any building set-back line**. This provision shall not apply to bicycles.

On Monday, March 22, 2021, at 03:45:13 PM EDT, Michael Brennan <mdb@universityheights.com> wrote:

This message was sent from the City of University Heights.
I've sent an inspector.

Michael Dylan Brennan | Mayor
City of University Heights

From: Vivienne Porter <vivienne.porter@yahoo.com>
Sent: Monday, March 22, 2021 2:54 PM
To: Michael Brennan <MDB@universityheights.com>
Subject: Garbage at 2343 Miramar Blvd

Danny Grand has obviously missed today's garbage pickup. Bags of garbage are piled along his drive. And he has stacked limbs and twigs right next to our living room window.

Please drive by for a better view.

Vivienne Porter

EXHIBIT 31

UNIVHTS000849 Scalise email

March 28, 2021

From: Vivienne Porter <vivienne.porter@yahoo.com>
Sent time: 12/08/2021 05:12:36 PM
To: Geoff Englebrecht <GEnglebrecht@universityheights.com>
Subject: Fw: 2343 Miramar Blvd

-----Forwarded Message -----

From: Vivienne Porter <vivienne.porter@yahoo.com>
To: Stephanie Scalise <sscalise@universityheights.com>
Sent: Sunday, March 28, 2021, 08:32:59 PM EDT
Subject: Re: 2343 Miramar Blvd

Thank you.

I think we will touch base with the Building Department tomorrow morning -- for the 42nd time. Maybe SAFEbuild will be a little more together than the past year's nonsense.

It just seems the Building Department should be able to reinspect work done before issuing a Certificate of Occupancy to the Grands. No one ever came back. No one from the City. When I received the Public Records from Brendan Zak, I asked him about that and he NEVER bothered to email me back. Never bothered.

We just really appreciate ALL you are doing, and we mean that VERY seriously.

Such a journey.

Thank you, Vivienne

On Sunday, March 28, 2021, 05:58:25 PM EDT, Stephanie Scalise <sscalise@universityheights.com> wrote:

This message was sent from the City of University Heights.

Good evening, Porter Family.

Because I do not have access to the Building and Housing Dept. records, or the BZA's records, I cannot knowledgeably answer your specific questions about past inspections or permits. That type of information would have to come from those departments directly.

But, I can share with you that, since our last conversation, I have had a productive conversation with our mayor. I learned that a housing inspector has been directed to conduct an inspection and issue a written 10 day notice for all violations he sees. At this point, I am awaiting an update from the inspector and have even made a note on my calendar to proactively contact him when that 10 day deadline might be up to determine next steps. The 10 day notice is the first step in laying a foundation for a successful prosecution if it becomes necessary.

I will note that the city cannot just walk into anyone's home anytime it wants. Even if neighbors request inspections on a nearby property, we have either have the property owner's permission or get a search warrant from the court. A search warrant for housing code violations is very hard to obtain. I have to convince a court that there's enough evidence to be sure that major violations are occurring in a way that it's enough to override a homeowner's right to privacy. It's a big wall to jump over, but not impossible. I say all of that to say that, it would not be a surprise to me if our inspector comes back with a list of external violations based only on what he can see from the sidewalk. That type of list, however, may be enough to get me started on a process of getting a court to order more.

Realistically, this will probably be a long process and it will likely still feel like nothing is happening for awhile. I'm not doing you any favors if I don't tell you that up front. But, I can promise you that no one is ignoring this now. Between the mayor's office, the housing department, and my office, we are all pressing forward as urgently as we can.

Stephanie B. Scalise,
Prosecutor & Assistant Law Director

City of University Heights
Law Department

From: Vivienne Porter <vivienne.porter@yahoo.com>
Sent: Friday, March 26, 2021 2:52:27 PM
To: Stephanie Scalise
Subject: 2343 Miramar Blvd

Stephanie,

One question… we really, really want a final building department inspection an all that was part of the original permits, the variances from last summer, and the denied variances (by the BZA) from last summer with regard to 2343 Miramar Blvd.

When we were battling water run-off (via multiple summer 2020 Zoom BZAs) into our your yard last summer, which has now cost us almost $5K, this is exactly what we suspected from our neighbor.

It has been 14 months since we've last seen anyone from the City Building Department at this property. There has been no reinspection (despite numerous requests on our part). Certificate of occupancy? An update (last submitted by the City in 2003 -- (yes, that would be from our 20-year deceased neighbor)) to the footprint they see as our City not submitting permits is why the taxes are so low for Danny Grand.

So as not to step on your toes, is this part of your plan? We do NOT want to throw a wrench into your plans and are just so grateful to you!! There are a lot of anomalies that are very clear to us -- from living just 12 feet away. Lots of ordinance violations. So clear and maybe pretty ignored.

We appreciate, more than you can possibly EVER know, you just talking to us yesterday. We have felt SO ignored on so many levels.

Please call anytime. Just don't want (at this point) to destroy anything you have planned. We are happy to share the things we have seen.

Vivienne and Jeff Porter

- - -

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

- - -

Daniel Grand,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No.
	)	1:22-cv-01594
City of University Heights,	)	
Ohio, et al.,	)	
	)	
Defendants.	)	

- - -

Tuesday, October 31, 2023

- - -

Videoconference deposition of MICHAEL DYLAN BRENNAN, taken remotely, via Zoom, pursuant to notice, commencing at 9:39 p.m., on the above date, before Deborah C. Furey, Registered Professional Reporter and Notary Public in and for the State of Ohio.

- - -

* * *

[81]

Q. Right. So you received a message from Mr. Feldman in the afternoon of that day, and then sometime in the evening -- but just to be clear, you did

authorize Mr. -- you did authorize the author of this letter, who is a Mr. McConville, you did authorize him to send this letter, correct?

A. Yes. He was not acting on his own, no. I do approve of this letter being sent.

Q. Okay.

A. I do not recall whether I read it before it was sent.

Q. Did you speak to Mr. Grand before this letter was sent?

A. I did speak with Mr. Grand, I believe on this day. I don't know if he would have received the letter or if it was sent prior to my speaking.

Q. When you spoke to Mr. Grand, what's your recollection of that conversation?

A. My recollection is that Mr. Grand tried [82] to minimize what he was doing, and tried to characterize it as something different than what I saw in the invitation.

And I made clear to him that we have requirements in the City of University Heights, that one seek and obtain a special-use permit before operating a house of worship, yeah, in our city.

Q. Well, you said he was trying to minimize what he was doing. It sounds like your mind was already made up; is that fair?

A. No, I wouldn't quite put it like that, but I would say that I didn't find Mr. Grand credible.

Q. Okay. So why is it that you didn't find him -- so let's go back, without sort of the characterizations he was trying to minimize.

Just can you tell me specifically what you recall him saying was his intention?

A. Well, he was describing that he was just trying to get some people together at his house to pray, but he was withholding that he had invited the community to come over to the opening of the synagogue, to come meet the rabbi and be a part of an ongoing concern with regular weekly services.

[83]

I had the benefit of the invitation from him. I didn't tell Mr. Grand I had that. And when I heard him minimize what he was doing, I believed he was being dishonest with me.

Q. So you interpreted his letter or his invitation as an invitation to the community?

A. Yes.

Q. Why did you think that?

A. Because the invitation tells people to share this with everybody who might be interested.

Q. Did you know who this e-mail was sent to, the invitation was sent to?

A. At that time, I did not know everybody who had received the invitation.

Q. Did you seek to find out who had received the invitation?

A. When? At that moment? I was just trying to --

Q. After you received --

(Cross-talking.)

A. -- any misunderstanding over whether or not you can open a synagogue without a permit in a day or two prior to when the opening is.

* * *

[88]

Q. So let's -- okay. We'll come back to this. I would like to move on to another topic.

In the cease-and-desist letter the author, I guess it's Mr. McConville, says that a special-use permit under 1274 will be required.

Do you see that? Did you see that before I took it down?

A. I did see that.

Q. Okay.

A. It has disappeared.

Q. So I don't need to put that back up.

What I would like to do, though, is -- I'm just going to -- I would like to shift gears a little bit here and talk about the planning [89] commission meeting that would occur a couple months later.

And I just want to go back to the cease-and-desist letter just for a second. I'm going to pull this up. Yeah, I'm just pulling up again PB3, and I'm looking at the last page here.

And it says, "You may make application to the City's Planning Commission for a Special Use Permit."

Before we get to that, did you consider telling Mr. Grand, either in conversations with him or before this letter went out, that if he kept the prayer on shabbos to a small group of people, he would not need a special-use permit?

A. No, I don't -- no, I did not.

Q. And do you believe that if he had kept -- if he were to keep shabbos prayer at his -- in a room in his home to ten or so people, that he would not need a special-use permit?

A. Yeah, I would agree with that. I would agree that a small prayer gathering, even a small regular prayer gathering is not the same as a shul or a synagogue, and not the city's business at that point.

Q. Okay. So a small prayer -- and I think [90] you said that you understand a shul can be a small prayer gathering, correct?

A. Apparently, it can.

Q. That was your earlier testimony, yeah. So a shul that would be a small prayer gathering would not require a special-use permit, and yet you didn't -- you jumped immediately to telling Mr. Grand that he wouldn't -- he had to cease any use of the premises -- and I'm just quoting here -- as a place of religious assembly, even though using his home as a shul for a small gathering of people to pray, would not require a special-use permit.

I guess I just don't understand the procedure here.

A. I don't understand your question.

Q. My question is: Why did you send a cease-and-desist letter to Mr. Grand, when you just said he wouldn't need any approval if he wanted to have a shul in his home for a small gathering?

A. No, that wasn't my testimony. We sent a cease-and-desist letter because we believed he was opening a synagogue in his home. And it appeared that this was going to be a large gathering. The [91]

aspirations in the invitation itself suggested, you know, let everybody know who might want to be here, we're having regular weekly services. There is a name for the organization or the concern, called Shomayah Tefillah Beis Hakeneset, led me to believe we were talking about the opening of a formal house of worship in Mr. Grand's home, based upon Mr. Feldman's comments and Mr. Grand's invitation itself.

And if it turned out it wasn't that, then the cease-and-desist letter was -- would not be -- and eventually, when it became clear that all Mr. Grand, you know, wanted to do was have a small group of people pray in his home, you know, the city is prepared to say fine. That's not the city's business.

But at this point it did not appear that that's what we were talking about. It appeared to me, and I think to the law director, too, because he signed the letter and prepared this, that it appeared to be a more formal, larger, you know, shul or synagogue that was opening a house of worship. And under the code 1274 a special-use permit is required.

Q. Just to recap, you didn't ask [92] Mr. Feldman to clarify his allegations, correct?

A. No. I think I said I didn't recall whether I spoke with him or not.

Q. And you didn't ask Rabbi Rosskam to clarify his role in this?

A. I had to idea how to get ahold of the rabbi.

Q. Then you said you thought Mr. Grand was not credible, is that correct?

A. I believe that's what I said, yes.

* * *

[227]

Q. Do you have any idea who the members of Groveland Chat are?

A. I would presume they are members -- they are people who live on Groveland Road in University Heights.

Q. But you don't know that?

A. I don't know that for certain, no.

Q. And you don't know for certain who the members of the Groveland Chat are, do you?

A. Correct, I do not.

Q. And do you know whether Mr. Grand was a member of the Groveland chat?

A. Mr. Grand?

Q. Yes.

A. I doubt that he was.

Q. Do you know whether Mr. Grand even knows Mr. Feldman?

A. I don't know.

Q. All right. All right. Let's go back [228] to, I think it is PB19.

If you look at the one, two, three, four -- the fifth paragraph of PB19. Could you just read that paragraph, please?

A. "As Mayor, I serve as chair of the Planning Commission and I have sought to conduct the proceedings fairly. I am cognizant that if the Commission rejects the application, it may be appealed. Accordingly, I have sought to create a proper record for review under ORC 2506.01 et seg. Without a proper record, an appeal could result in a hearing de novo, meaning that the applicant would then get to make their case anew before the court. I'd rather that any reviewing court confine its review to our transcript and the documents presented to the Planning Commission. That a court review the factors as testified to and that we considered with respect to Chapter 1274 of our local ordinances. That a court review only what was presented before us, rather than allow an applicant's second bite at the apple, and possibly bring up matters to the Court that the City did not hear and thus could not consider. This may result in a court substituting its judgment for our own. Providing time to the [229] applicant to make his case, and to cross examine witnesses, is done with all of this in mind. It does take more time on the onset, but in a long view, this is time spent purposefully."

Q. Okay. So having read that, do you still maintain that the reason that you conducted the hearing as a quasi-judicial proceeding is simply because that's what SUP applications are?

MR. CLIMER: I object to the form.

Go ahead.

THE WITNESS: Yeah, I don't think I ever said that.

I mean, I did say earlier, and you quoted it back to me how, you know, it is at our option that we would hold a SUP application, a hearing, in a quasi-judicial hearing. But we do do that for these reasons, the reasons that I stated here. I stand by these reasons. These are why we do that.

Q. Okay. And you say you want to provide time to the applicant to make his case?

A. Yes.

Q. Do you think that by sending Mr. Grand a cease-and-desist letter the same day that you learned that he was planning on having people pray [230] at his home, that was really giving him time to make his case?

MR. CLIMER: Object to the form.

Go ahead.

THE WITNESS: We gave him time to make the case after the hearing on March 4th, after he made a formal application for a special-use permit. These are two different things.

Q. Going back to, I think it was PB18, where counsel said, "Was Danny informed it would be" -- that the proceedings would be quasi-judicial.

Counsel doesn't appear to have any idea that this was meant to be -- that the proceeding was meant to be done in this quasi-judicial manner; would you agree with that?

A. You know, Mr. Rosenfeld asked me a question. I don't know what Mr. Rosenfeld knew or didn't know, and I don't know what he informed his client.

Q. Just a matter of fairness: If Mr. Grand didn't know that the proceeding was going to be a quasi-judicial proceeding, wouldn't it be fundamentally unfair to him to conduct the proceeding in that manner?

[231]

MR. CLIMER: Objection.

Go ahead.

THE WITNESS: I don't think it would be unfair.

I mean, I can't help Mr. Grand's preparation for the hearing or the preparation of his application or his selection of counsel or what they did to prepare for their hearing.

Q. Do you recall, during the hearing itself, Mr. Fine saying that he was unaware of any proceeding ever having been conducted in that fashion before?

A. I am aware of that.

Q. And so don't you think, if one of the members of the commission was unaware that the proceedings had ever been conducted in this fashion, that an applicant, new to this process, would really have no idea what process he was walking into?

MR. CLIMER: Objection.

Go ahead.

THE WITNESS: Well, again, I don't know what Mr. Grand knew or didn't know.

You know, Mr. Fine had been on the planning commission for the long time. His [232] service on the commission predates my time as mayor.

The transition to conducting the BZA hearings is quasi-judicial hearings, and those planning commission hearings which involve the granting of variances as the BZA would, was a relatively new process in relation to the many years that Mr. Fine spent on the planning commission.

> So it may have been, you know, new to Mr. Fine, as well. There's a first time for everything. That is how we do this now.
>
> We've had other special-use permit applications. They have been handled in this manner, and they continue to be.
>
> We are engaging in what I believe are the best practice for all of our applicants and for the benefit of applicants, the community and the city. And this is how we do this.
>
> If Mr. Grand did not know that -- you know, he withdrew his application before we had an opportunity to deliberate and to ask him additional information that I believe we would have asked, had we had an opportunity to [233] deliberate. Mr. Grand ended this process, you know, prematurely. We never got an opportunity to actually give him a up-or-down vote or deliberate that would lead to an up-or-down vote. Or ask for additional information that would help us to an up-or-down vote.
>
> * * *
>
> [237]

Q. The application was tabled to allow Mr. Grand to come back with a more thorough presentation?

A. I don't know that the application was tabled. I don't know that that was the only reason or the

primary reason. I see that written here. It is true that the application was tabled.

Q. Okay. And going down to the very bottom, Mr. Rach said he would like to see, as Mr. Fine suggested -- this is the ultimate line of the last paragraph -- he would "like to see as Mr. Fine suggested more drawings of the building and site plan for the next meeting so there is a clear understanding of how the space is to be used."

You have no reason to believe that is not an accurate statement of what Mr. Rach said, do you?

A. It sounds like something he would say. I don't recall precisely sitting here that's exactly what he said.

[238]

Q. But then, when Mr. Grand attempted to give you additional information, you did not accept any additional information from him?

A. That's correct. We wanted to deliberate.

Q. We can move on.

(Court reporter clarification.)

MR. QUAINTON: Let me take the screen back, Jonathan. So you can go out of that. Thank you. That was great. And hopefully I won't have the same problem again.

Q. I'm going to show you -- I'm going to ask the court reporter to mark as PB21 a document I'm hopefully going to put on my screen here. Yep.

(Exhibit 21 PB, E-mail chain, 3-9-21, no Bates stamps, was marked for the purposes of identification.)

Q. This one is a long one. You're going to have to take control of the screen. This is a long one. We're running out of time, so why don't you just --

A. I can't read that, it's too fine.

MR. CLIMER: What are we looking at?

[239]

MR. QUAINTON: We're looking at 21.03.05.

By the way, Jim --

MR. CLIMER: Yeah.

MR. QUAINTON: -- these documents all have on the top of them the number, as well, from the file?

MR. CLIMER: Yeah, that was what I was trying to get from the mayor.

THE WITNESS: I didn't know what you were asking.

BY MR. QUAINTON:

Q. Yeah, I should have said that, but it is there on the top of the file so you can pull it up.

Can you read that, is that --

A. Yeah, sort of. I mean, I know the gist of what's being said here.

* * *

[243]

Q. So PB22 is going to be a video that I would just like to play. Hopefully this will work. So I'm just going to put this on. It's a YouTube video --

(Cross-talking.)

(Discussion held off the record.)

MR. QUAINTON: I think the way we do it, that's good. It's too difficult for you to try to write down. Just say that the video was played or however you want to do that.

MR. CLIMER: I would request that you guys send me a copy of that video by Dropbox or however.

MR. QUAINTON: Okay. It should be. It's in the folder.

MR. CLIMER: Is it? Okay. I'm sorry.

MR. QUAINTON: I'll tell you where it is in the folder, so you can see.

This is the only Word document in the folder. It's a Word document, it says 21.03.23.

MR. CLIMER: I've got it here, it's a [244] link?

MR. QUAINTON: It's a link, yeah. So I'm going to try to play this. This is a video of the March 28th meeting.

MR. GROSS: 23rd, March 23rd.

MR. QUAINTON: Okay. This should work.

THE WITNESS: Debi, can you hear me? I just want to test my speakers.

COURT REPORTER: Yes, I can hear you.

MR. QUAINTON: Can everybody on the call hear and see this video?

MR. CLIMER: Yes.

THE WITNESS: Yes.

MR. GROSS: Yes.

COURT REPORTER: I can see it.

(Following is the transcription of the BP22 video link recording:)

"Yeah, I think that's (inaudible) using that."

"Oh, let's see. Okay. Cool. Michael, John's here. Yeah, there's John's, okay. Yeah, and Luke and you,

me, yes, a few others, too. Okay. Sure. I think we can Go ahead.

"Okay. so Let me let everybody in and I'll mute everybody.

"Thanks, Kelly.

[245]

"A lot of people waiting.

(Inaudible.)

"All the committee members should be able to unmute themselves.

"I would like to call this special meeting of the planning commission to order.

"Mrs. Thomas, will you please call the roll?

"Mrs. Thomas, Mr. (Inaudible)?

"Here.

"Mrs. Urban?

"Here.

"Mr. Zimborski?

"Here.

"Mr. Fine?

"Here.

"Mr. Rach?

"Here.

"We have a quorum.

"The meeting of March 4, 2021, though a long meeting, it went well over three hours, ended in a tabling that might have been hasty, as there was no deliberation on the testimony we heard. Even though the applicant, Daniel Grand, had presented, offered rebuttal testimony in opposition and then rested.

[246]

"In the days following that meeting, individual commission members demonstrated their desire to discuss this matter, in essence to deliberate, in the form of e-mails sent in that regard.

"Our law director reminded all commission members of our obligations under the Sunshine Law to deliberate by way of a publically noticed meeting.

"Therefore, I called this special meeting of the University Heights Planning Commission to afford our commission members the opportunity to take this matter from the table and deliberate. At 5:50 this evening, I received the following e-mail from the applicant.

"Mayor Brennan and Planning Commission, please be advised that I'm withdrawing my

application for a special-use permit. I do not wish to operate a house of worship as is defined under the zoning ordinance, in the privacy of my home.

"Mr. Daniel J. Grand."

"I therefore note for the record that the application is withdrawn. There is no special-use permit for 2343 Miramar Boulevard.

"And I will remind the applicant that the cease-and-desist order of the City, dated January 21, 2021 remains in effect.

[247]

"Let there be no confusion, congregating at 2343 Miramar Boulevard or any other address located in a residence zoned U-1 without a special-use permit is a violation of city law.

"I'm hopeful that the wording of the withdrawal is not intended to suggest that congregating weekly at a residence to conduct activities consistent with those in a house of assembly does not require a special-use permit.

"As recently as two months ago, the city brought suit against the organizers of another residential shul, one on Churchill Boulevard, and ultimately obtained a permanent injunction in court.

"To the community members who are here, let there be no question, there is no permission granted here to operate -- there is no permission granted here

to operate a house of assembly or conduct activities consistent with one at 2343 Miramar Boulevard.

"If you observe such activities, and I hope you do not, but if you do, you may report them to the city, and the city will enforce its laws, which exist for the benefit of the entire community.

And we will seek all appropriate remedies in court.

"With that I move to adjourn.

[248]

"Is there a second?

"Second.

"Second by Mr. Zimborski.

"Mrs. Thomas, will you call the roll?

"Mayor Brennan?

"Yes.

"Mrs. Urban?

"Yes.

"Mr. Zimborski?

"Yes.

"Mr. Fine?

"Yes.

"Mr. Rach?

"Yes.

"We are adjourned. Thank you.

(End of video link recording playback.)

* * *

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

DANIEL GRAND,	) CASE NO.:
	) 1:22-CV-01594
	)
Plaintiff,	) JUDGE: BRIDGET
	) MEEHAN BRENNAN
	)
vs.	) **DEFENDANTS' BRIEF**
	) **IN OPPOSITION TO**
CITY OF UNIVERSITY	) **PLAINTIFF'S MOTION**
HEIGHTS, OHIO, et al.,	) **FOR PARTIAL**
	) **SUMMARY**
Defendants	) **JUDGMENT**

* * *

2. Defendants did not deprive Grand of the equal protection of the law. In arguing that his equal protection rights were violated, Grand string cites a number of cases in an attempt to demonstrate that he was discriminated against. However Grand fails to mention the applicable standard to establish an equal protection claim, let alone demonstrate that there is no genuine issue of material fact.

A number of the cases cited by Grand merely deal with the Fair Housing Act or other laws prohibiting discrimination, without any mention of equal protection. Additionally, the cases which mention equal protection establish that a showing of discriminatory impact is insufficient, instead

discriminatory motive must be shown. *See Village of Arlington Heights v. Metro Housing Dev. Corp.*, 429 U.S. 252, 268-71 (1977).

Here, Grand claims that "it is undeniable that the record contains strong evidence that the City's decision to shut down Grand's prayer gorup (sic) was at least partially motivated by the fact that Grand is Jewish." (Pl. Motion, p. 27). However, the action which prohibited Grand from operating a shul in his home, the cease and desist letter sent by Mayor Brennan advising Grand to terminate such behavior, has absolutely no discriminatory motivation whatsoever. Additionally, the quotes Grand attempts to attribute to the Planning Commission or City are from items submitted by members of the community or otherwise and cannot be attributed to any actions taken by the City, as discussed in the Introduction, *supra*. Indeed, at the depositions for the Planning Commission members that testified, Grand attempted to root out any evidence of discriminatory motivation and each member denied relying on any such items. Deposition of April Urban, Exhibit E, at 35:3-9; Deposition of Paul Siemborski, Exhibit F, at 74:12-23; 94:17-95:22. Grand's repeated attempts to demonstrate that he was treated differently due to his religion do not pass muster and do not entitle him to summary judgment.

Additionally, when challenging a zoning regulation "as applied" in an equal protection claim, plaintiffs must prove that they were injured by a final decision. *See Seguin v. City of Sterling Heights*¸968 F.2d 584, 588 (6th Cir. 1992) ("absent an application

for a variance and a final decision on that application, we are unable to determine, at this juncture, whether the city will ultimately deny plaintiffs the equal protection of the laws", citing *Williamson County Regional Planning Comm'n v. Hamilton Bank*, 473 U.S. 172, 186 (1985)). This is axiomatic, as the plaintiff must demonstrate that they were treated less than equally in the denial of his or her application for an SUP. Here, Grand withdrew his application prior to any determination being made, therefore this Court is unable to determine whether he was treated unequally or not.

Similarly, Grand has failed to prove that anyone similarly situated was treated differently than him. (Plaintiff Depo. Exhibit A, at 189:12-193:25). Establishing a comparator is a necessary element of an equal protection claim that Grand entirely ignores. *Paterek v. Village of Armada*, 801 F.3d 630, 650 (6th Cir. 2015); *Wellons v. Northwest Airlines, Inc.*, 25 Fed.Appx. 214, 220 (6th Cir. 2001). Defendants' argument on this subject is more fully addressed in their Motion for Summary Judgment and is incorporated herein by reference. Therefore, Grand was not deprived equal protection and summary judgment in his favor should be denied.

* * *

EXHIBIT B

You are cordially invited to join us this Shabbos for the inauguration of the Shomayah Tefillah Beis Hakeneset located at 2343 Miramar Blvd. (The Daniel J. Grand Residence)

We would also like to take this opportunity to introduce to you our Rabbi - Rabbi Rosskam - a smicha recipient from Rabbi Rueven Feinstein, and Rabbi Heinemann from Star-K

The Davening Times will be:

Friday Erev Shabbos Mincha	5:20 p.m.
Shabbos Shacharis followed by Kiddush	9:45 a.m.
Mincha Followed by Seudah Shlishit	5:00 p.m.

You will see the shul entrance - keep a look out for the Orange Windows -

And Please spread the word to whomever you feel might be interested in coming -

The shul is being put together for two reasons, one has always been to expand the community, so we can spread out and open up more houses on the other side of belvoir, and the other is to have a place where people come to really, seriously daven to Hashem - we want to have a place that doesn't have talking during the davening, a powerful place to have your prays heard and answered Bezrat Hashem -

We are on the fence regarding the nusach, we want to see what the kehilla would prefer, we are debating

between Ashkenaz, and Sefard, the services for this week will be Ashkenaz.

Thank you so much, and if you have any questions, or would like to share something, please fell free to reply.

Finally, if you are interested in joining us for some or all of the minyanim, please let us know, it will be super helpful, we're pushing hard to make sure we have a minyan right from the start so please come and also please consider bring someone with you.

Blessings,
Mr. Daniel J. "Danny" Grand
Shomayah Tefillah

EXHIBIT 41

SECOND DECLARATION OF DANIEL GRAND (WITH EXHIBITS A-E)

FEBRUARY 23, 2024

Exhibit A – Police Report, February 21, 2021

Exhibit B – Police Report, May 4, 2021

Exhibit C – Grand email to City, May 13, 2021

Exhibit D – City council email, May 9, 2021

Exhibit E – Cleveland.com article about City Council meeting, April 23, 2021

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

GRAND,	)
	)
v.	) Case No. 1:22-cv-1594
	)
UNIVERSITY HEIGHTS, et al.	) JUDGE BRIDGET M. BRENNAN
	)

SECOND DECLARATION OF DANIEL GRAND

Pursuant to 28 U.S.C. § 1746, I, Daniel Grand, hereby declare as follows:

1. In February of 2021 (after – not before - I filed my SUP application for a prayer group), I noticed that a neighbor had set up multiple cameras - at least 4 that I know of – pointing directly at and into my home.

2. A police report was filed on February 21, 2021, reporting the cameras. Exhibit A.

3. A second police report was filed a few months later. Exhibit B.

4. Police came to my house on more than one occasion. There should be body camera footage of these police visits.

5. The police said there was nothing they could do about the situation.

6. I also requested from numerous city officials that the city order my neighbors remove the cameras, but they told me that they would do nothing about it. Exhibit C.

7. To protect my privacy and my family's privacy, I hung a landscaping mesh sheet and pinned it on a tree on my property to block some of the cameras. Exhibit D.

8. Instead of stopping the neighbors from recording, a city attorney ordered me to remove the fabric mesh.

9. I learned later that shortly after I put up the fabric mesh, a city council member visited my property to take a picture of the fabric mesh and bring it to the attention of the city in an effort to get me to remove the mesh. Exhibit D.

10. The surveillance of my home was widely reported on www.Cleveland.com. Exhibit E.

11. At a public City Council meeting available to view on Youtube, https://www.youtube.com/watch?v=v81tOCxgA-Y, and reported on by Cleveland.com, "Brennan said [Grand's neighbor] had surveillance cameras on Grand's property and reported to Brennan and Police Chief Dustin Rogers, via his vacation home in Florida and "at all hours of the night," what was spotted on those cameras. *Id*.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed: February 23, 2024

/s/ Daniel Grand

Daniel Grand

Exhibit A – Police Report, February 21, 2021

UNIVERSITY HEIGHTS **CAD Number 2130024673**

CAD CALL For Service

Date:	Time:	Mrc:	Dispatchers:
02/21/2021	16:50:45	T	R308 R317

Location:	City:	Zone:	Grid:	Agency
2343 MIRAMAR BLBD	UNIVERSITY	E	E	UH

Call Type:	Incident#	Accident#	EMS#	Fire#
NEIGHBOR TROUBLE				

Reviewed By: **Disposition:**
Strat Transport **End Transport**
---------- Caller: ----------
Common Name:

Caller:
VANESSA GRAND
Caller Address:
2343 MIRAMAR BLVD UNIVERSITY O
Phone
[REDACTED]

---------- Units / Times ----------

Unit: Dispatch: Route: Arrive: Cleared: Patient: Leave: Hospital: In Service: Quarters: Badge1 Badge2: Agency

---

Narrative

Fever / Chills –
Cough –
Nasal / Chest Congestion –
Sore Throat –
Body Aches –
Have you or anyone in your family been placed in quarantine –
Have you had close contact with anyone exposed to the Coronavirus in the past 14 days –
If there are any positive responses, please have patient meet responders outside if able –
CALLER REPORTS NEIGHBOR HAS CAMERAS FILMING THERE HOUSE. ON GOING ISSUE WITH THE NEIGHBOR AND SCARED AND REQ TO SPEAK WITH AN OFFICER

–From 02/21/2021 16:54:35 To 02/21/2021 16:54:44 Disp R308 –
CALLER WAS ADVISED SINCE CAMERAS ARE ON NEIGHBORS PROPERTY THERE IS NOTHING THEY CAN DO. IF THE NEIGHBOR DOES HOWEVER MAKE HER OR FAMILY MEMBERS FEEL UNCOMFORTABLE THEY SHOULD CALL PD
–From 02/21/2021 17:20:42 To 02/21/2021 17:22:12 Disp R317 –

Exhibit B – Police Report, May 4, 2021

UNIVERSITY HEIGHTS **CAD Number 2130062666**

CAD CALL For Service

Date:	Time:	Mrc:	Dispatchers:
05/04/2021	14:26:39	T	R309 R189

Location:	City:	Zone:	Grid:	Agency
2343 MIRAMAR BLBD	UNIVERSITY	E	E	UH

Call Type:	Incident#	Accident#	EMS#	Fire#
NEIGHBOR TROUBLE				

Reviewed By: Disposition: ASSISTED
Strat Transport **End Transport**
---------- Caller: ----------
Common Name:

Caller:
RACHEAL GRAND
Caller Address:
2343 MIRAMAR BLVD UNIVERSITY O
Phone
[REDACTED]

---------- Units / Times ----------

Unit: Dispatch: Route: Arrive: Cleared: Patient: Leave: Hospital: In Service: Quarters: Badge1 Badge2:Agency

---

Narrative

CALLER REPORTS HER NEIGHBOR (HOUSE TO THE RIGHT) HAS CAMERAS POINTING AT HER HOUSE
NEIGHBOR IS HOSTILE SO SHE HAS NOT SPOKE WITH HIM ABOUT THE COMPLAINT. HIS NAME IS JEFF PORTER.
CALLER WOULD LIKE TO SPEAK W POLICE FIRST.
NEGCOVID

–From 05/04/2021 14:27:43 To 05/04/2021 14:29:13
Disp R309–

Exhibit C – Grand email to City, May 13, 2021

From: Luke McConville <mcconville@nicola.com>
Sent time: 05/14/2021 06:24:08 PM
To: Stephanie Scalise <SScalise@universityheights.com>
Subject: RE: Ltr to Daniel Grand Dated 5.10.2021 (01343081xBFD00).PDF Mr. McConville

---

[WORK PRODUCT REDACTED]

Thanks,

Luke

Luke F. McConville
Attorney at Law
Nicola, Gudbranson & Cooper, LLC
ATTORNEYS AT LAW

From: Stephanie Scalise <SScalise@universityheights.com>
Sent: Thursday, May 13, 2021 2:40 PM
To: Michael Brennan <MDB@universityheights.com>; Luke McConville <mcconville@nicola.com>
Cc: Dustin Rogers <drogers@universityheights.com>; Michele Weiss <mweiss@universityheights.com>; justin@justingould.com; Barbara Blankfeld <bblankfeld@universityheights.com>; Susan Pardee <spardee@universityheights.com>; John Rach <jrach@universityheights.com>; Saundra Berry

<sberry@universityheights.com>; Phillip Ertel <pertel@universityheights.com>
Subject: Fw: Ltr to Daniel Grand Dated 5.10.2021 (01343081xBFDOO).PDF Mr. McConville

This message was sent from the City of University Heights.

[ATTORNEY CLIENT REDACTED]

Stephanie B. Scalise,
Prosecutor & Assistant Law Director

City of University Heights
Law Department

From: Mr. Daniel J. Grand <danieljoshua@me.com>
Sent: Thursday, May 13, 2021 2:02 PM
To: Luke McConville Foward; Michael Brennan; Michele Weiss; Saundra Berry; Barbara Blankfeld; Justin Gould; Susan Pardee; John Rach; Fred White; Ciuni, Joe; Stephanie Scalise; Dustin Rogers; ohlegsupport@ohioattorneygeneral.gov; contact@daveyost.com; david.oppenheimer@ohioattorneygeneral.gov; dave.yost@ohioattorneygeneral.gov
Cc: Abby Southerland; M Goldfeder; rjhoward@howardlawoffices.com
Subject: Ltr to Daniel Grand Dated 5.10.2021 (01343081xBFD00).PDF Mr. McConville

This is Daniel Grand, 2343 Miramar Blvd, U.H. OH 44118 [REDACTED]

Our Neighbor - Jeff Porter - has 3 - not 1 but 3 camera's pointed at my house, and as we know from public statements made by the Mayor, has used video's from the footage captured without consent from those cameras to show to the Mayor and Police Chief and many other people in the University Heights Administration, to attempt to get me in trouble, get me violations, and certainly to annoy, me, and my family, and others….

Attached are pictures showing where the cameras are, showing that they are pointing to my property, and a letter with a little bit more background on the matter…

We are asking that the City act and please have those camera's removed, or have him position them away from causing my family any further annoyance, we have called the police and although very nice and friendly to us, said that it would be up to their lieutenant, we've not heard back, Jeff Porter is a retired cop of over 25 years in the area, and he knows everybody from the Mayor down…. The Mayor also is aware of these cameras quite well, all we're asking is that they be moved or taken down, or positioned away from us alone, no one else has cameras pointed at their neighbors like this, or has videos sent to all department heads like this either, the city can intervene and we are again calling on them do to do here.

648.10 ANNOYING PERSONS.

(a) No person shall accost or follow, or by words or gestures invade or disturb the privacy of or threaten or annoy, any person within the City.

(Ord. 73-20. Passed 3-1973.)

(b) Whoever violates this section is guilty of a misdemeanor of the third degree.

(1982 Code, § 509.08)

Mr. Daniel J. Grand

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

DANIEL GRAND,	) CASE NO.:
	) 1:22-CV-01594
	)
Plaintiff,	) JUDGE: BRIDGET
	) MEEHAN BRENNAN
	)
vs.	) **DEFENDANTS'**
	) **REPLY IN SUPPORT**
CITY OF UNIVERSITY	) **OF MOTION FOR**
HEIGHTS, OHIO, et al.,	) **FOR SUMMARY**
	) **JUDGMENT**
Defendants	)

* * *

REPLY IN SUPPORT

I. RELEVANT FACTS

In a recurrent attempt to create a genuine issue of material fact to survive summary judgment, Grand repeatedly misrepresents the facts and cites to self-serving statements. These statements follow some general trends and are addressed below. The attempt to create a genuine issue through distorting the facts does not survive review, as "[t]he non-movant must show more than a scintilla of evidence to overcome summary judgment; it is not enough for the non-moving party to show that there is some metaphysical

doubt as to material facts." *Fulson v. City of Columbus*, 801 F.Supp. 1, 4 (S.D. Ohio 1992).

First, Grand repeatedly alleges that his only intention was to host a "small" prayer group, and there is no evidence that he ever intended to establish a formal house of worship in his home. (Plaintiff's Brief in Opposition, hereinafter "Pl. Brief in Op.", p. 1). This statement is always qualified as a "few," a "small group," or "a prayer group" to minimize his initial intention to create and operate a shul in his residential home on Miramar Boulevard in University Heights. However, in his Declaration, attached to his Motion for Partial Summary Judgment as Exhibit 1, Grand states that he sent his email to approximately 12 people. (Plaintiff's Appendix of exhibit, hereinafter "Pl. Appx.", p. 3, ¶ 8; ECF 82). Further, while Grand repeats that it was sent to a few friends, the Facebook message forwarded to Mayor Brennan from Ben Feldman, clearly demonstrates that Grand's invitation states "And Please spread the word to whomever you feel might be interested in coming." (Pl. Appx, p. 9). Mysteriously, this portion, and others claiming that "you will see the **shul** entrance" and "The **shul** is being put together ….", are absent from the invitation when Grand himself forwarded it to Mayor Brennan. (Pl. Appx., p. 7) (emphasis added). Although Grand has consistently downplayed the prospective attendance at his shul, his own written words establish that he was hoping to have the largest gathering possible. Tellingly, the email he sent to this "small group" of friends has never been produced and is not included in the record.

Second, Grand consistently alleges that Defendants have produced no evidence that he intended to do anything other than host a prayer group in his home. (Pl. Brief in Op., p. 11). However, the previously mentioned invitation clearly invites members of the community to "the inauguration of the Shomaya Tefiillah Beis Hakeneset" and introducing "our Rabbi – Rabbi Rosskam". (Pl. Appx., p. 9). Additionally, in Grand's own Declaration, he explains that "I know that the intended recipient of my email understood what I meant because they are my friends and they knew that **I was converting my residential home into a formal synagogue that would be ready to be inaugurated a few days later**." (Pl. Appx., p. 3, ¶ 12) (emphasis added). In his "clarity letter" to neighbors, Grand claims that "we are not proposing a 'shul'" and explains that a synagogue or shul is the same word in Yiddish. (Pl. Appx., p. 198). However, in his initial invitation to the orthodox community, Grand explicitly describes Shomayah Tefiliah Beis Hakeneset as a shul. (Pl. Appx., p. 9). While Grand was careful to subsequently refer to the proposed operation in his home as a prayer group, the initial intention to establish a shul and/or synagogue is evident from the record. Other such revisions can be seen in the record, such as Grand's SUP application stating he wanted to have "periodic religious gatherings" and representing at the March 4 Planning Commission meeting that he "wants to use the space in his house to host men's only prayer services for a prayer group **once a week** and on certain high holidays." (Pl. Appx., pp. 94; 140) (emphasis added). However, as can plainly be seen from Grand's initial invitation, he proposed praying

at least three times during the Shabbos – Friday evening, Saturday morning, and again on Saturday night. (Pl. Appx., p. 7).

Third, Grand continually alleges that the Defendants prohibited him from praying within his home, depriving him of his rights. However, the cease-and-desist letter at the base of his complaint clearly states that "[t]he City hereby notifies you that the use of the Premises as a place of religious assembly and/or in operation of a shul or synagogue is prohibited." (Pl. Appx., p. 89). Indeed, by Grand's own admission, the cease-and-desist applied to the conduct which Grand had explained in his invitation – "Defendants pursued a policy of ordering Grand to cease-and-desist **any activity consistent with what was described in Grand's invitation unless he obtained a SUP to operate a synagogue**." (Pl. Brief in Op., p. 4) (emphasis added). Even Mayor Brennan's statement after Grand withdrew his application displays this exact intent: "let there be no question, there is no permission granted here to operate … a house of assembly or conduct activities consistent with one at 2343 Miramar Boulevard. (Pl. Brief in Op., p. 6). On the contrary, Grand cannot cite to any evidence that Defendants ever told him that he was not free to pray within his home. Indeed, Mayor Brennan testified that if Grand kept the Shabbos prayer at his house to ten or so people, that it would not be the business of the City and would not require an SUP. (Mayor Brennan Depo. 89:16-24). Grand's repeated claims that Defendants prohibited his ability to pray in his home are unfounded and develop a false narrative not supported by evidence.

Finally, Grand places much stock in the fact that his prayer group was only going to take place in one room of his home. However, by his own admission, a shul can range from the cabin of an airplane to an entire stadium. (Pl. Brief in Op., p. 8). Clearly, the size of the space has no bearing on the intended scope of the shul – as Mayor Brennan testified that once while visiting another residential shul that he observed at least 120 or 130 in the basement of a home. (Mayor Brennan Depo., 55:4-20). Grand's reliance on the size or character of the single room in his home is not persuasive and provides no support for his position, as the prayer in a church or synagogue typically takes place in a single room where a congregation is addressed by a religious leader.

Similarly, Grand's claim that a dispute over the word shul prevents summary judgment in favor of Defendants is misplaced, as the context, established herein, demonstrates Grand's intentions, despite his subsequent efforts to rebrand the shul as a small prayer gathering of a few friends in a single room of his home.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

GRAND,	)
	)
v.	) Case No. 1:22-cv-1594
	)
UNIVERSITY HEIGHTS, et al.	) JUDGE BRIDGET M. BRENNAN
	)

DECLARATION OF RAKEHL GRAND

Pursuant to 28 U.S.C. § 1746, I, Rakhel Grand, hereby declare as follows:

1. I am the wife of Daniel Grand and live with him at 2343 Miramar Blvd. in University Heights, OH.

2. At no time did Daniel intend to open up our home to the public to be a formal synagogue.

3. Daniel's plan was to invite people over to daven with a minyan only on days when driving is prohibited by Jewish law.

4. I am an Orthodox Jew and know many other Orthodox Jews.

5. When I use the word "shul" I do not always refer to a formal synagogue. "Shul" can also refer to a place where prayers are held, or a prayer group.

6. For instance, if Daniel were to host a minyan in a room in our house, I would refer to that room as the "shul."

7. Alternatively, if we were out of town for a shabbos and the minyan would meet at someone else's home, I would tell people, "the shul is meeting at so-and-so's house this Shabbos."

/s/ Rakhel Grand

Rakhel Grand

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

GRAND,	)
	)
v.	) Case No. 1:22-cv-1594
	)
UNIVERSITY HEIGHTS, et al.	) JUDGE BRIDGET M. BRENNAN
	)

DECLARATION OF RABBI AHARON ROSSKAMM

Pursuant to 28 U.S.C. § 1746, I, Aharon Rosskamm, hereby declare as follows:

1. I am an Orthodox Jew.

2. I am an ordained Rabbi, having received rabbinical ordination from Rabbi Reuven Feinstein and Rabbi Moshe Heinemann.

3. I studied Torah in Yeshiva for almost 10 years, followed by a number of years in higher levels of Torah learning.

4. I am the Rabbi that Daniel Grand referred to in his invitation to host a minyan (quorum needed for Jewish prayer) in his house in January of 2021.

5. I can say with 100% certainty from my own personal knowledge that Mr. Grand did not intend to convert his home into a formal

synagogue or to have a formal synagogue in his home. To suggest that his intention was to convert his home into a formal synagogue is absurd.

6. I was involved in planning the minyan with Mr. Grand and our intention was only to use one room in his house to pray as a minyan.

7. Our intention was only to meet at his house for days when driving is prohibited by Jewish law.

8. Our expectation and hope were that we would have just over 10 people attend. Ten is the absolute minimum for a minyan.

9. As an Orthodox Jew and a Rabbi, I use the word shul frequently, and I hear other Orthodox Jews use the word as well.

10. Though the word shul can sometimes refer to a formal synagogue, it also can refer to any place where Jews gather for a minyan.

11. I cannot think of another word other than "shul" to describe what Mr. Grand sought to do, which was to host a minyan in a room in his house on days when driving is prohibited.

12. I heard the University Heights Mayor's declaration at the March 23, 2021 Planning Commission meeting.

13. I had conversations with many Orthodox Jewish residents of University Heights, regarding this planned minyan or shul, their availability and

interest in attending, and their concerns and considerations.

14. I got the understanding from a number of these conversations that a considerable number of Jewish residents of University Heights would not attend a minyan of any size at Grand's home only for fear that they would be pursued or prosecuted for what the University Heights city would consider violating City law by doing so.

15. Additionally, after having many such conversations, over a considerable period of time, I got the understanding that any hopes of gathering ten Jewish people at Daniel Grand's home for any sort of regular minyan were killed by the City's cease-and-desist letter and the subsequent hearings because enough people were afraid of the City and of the hostile neighborhood opposition.

16. Being around many Jewish residents of University Heights, I developed an understanding of the perception of the fear of persecution many Jewish residents of University Heights had.

17. On at least one occasion I was at Daniel Grand's home, with a few other Jewish residents, and the University Heights Police Department pulled up outside. The fear of what the University Heights Police Department would do, and what next extreme step they would take was palpable.

Executed: March 10, 2024

/s/ Aharon Rosskamm

Aharon Rosskamm

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

DANIEL GRAND,	)	
	)	
Plaintiff	)	
	)	
vs	)	Civil Action No.
	)	1:22cv1594
	)	Bridget Meehan Brennan
CITY OF UNIVERSITY HEIGHTS, OHIO, MICHAEL DYLAN BRENNAN, in his official and individual capacity, JEFFREY PORTER,	)	
	)	
Defendants	)	

* * *

DEPOSITION OF LUKE F. McCONVILLE, ESQUIRE

Tuesday, December 5, 2023
4:20 p.m. – 6:44 p.m.

* * *

[40]

BY MR. QUAINTON:

Q Okay. Did you review the production that was made in response to this FOIA request?

A I don't believe so.

MR. CLIMER: Again, you're talking about the second one?

MR. QUAINTON: Correct, I'm talking about the second one.

BY MR. QUAINTON:

Q Whatever was produced was something that you had reviewed? I guess your answer was no, you didn't?

A I don't recall that, no.

Q So you wouldn't know whether the information that was provided to a journalist pursuant to a separate FOIA request was coextensive with whatever was provided to Mr. Grand in response to his FOIA request?

A I would not know that.

Q Okay. Let's exit out of this.

I want to come back to Mr. Grand and come back to the March 4th, 2021 hearing on Mr. Grand's application for an SUP, a special use permit. You [41] explained at the beginning of the meeting that the

meeting would be conducted as a quasi-judicial proceeding, correct?

A Correct.

Q Had the Planning Commission, to your knowledge, ever conducted a special use permit application as a quasi-judicial proceeding in the past?

A I don't believe so, no. I believe that I stated on the record that a quasi-judicial proceeding had been conducted in the Aleksander shul hearing that preceded the Grand hearing. I've since had the opportunity, in the context of the Aleksander shul litigation, to listen to that hearing, and that was incorrect.

Q Yeah. So that was not --

A The format was similar, but the key distinctions would be that in the Aleksander shul case, there was no sworn testimony, nor was there any instruction about cross-examination.

The floor was provided to opposing counsel to do as they pleased. The floor was then opened for public comment which went on until everyone who wished to comment had had the opportunity. In that respect, the format was the same, but the oaths were not [42] administered at that hearing.

Q The only time, to your knowledge, that the Planning Commission ever conducted a hearing as a quasi-judicial proceeding was in the case of Danny Grand, right?

A To that point, the only section of the code that confers upon the Planning Commission the ability to grant variances is 1274, which is the code that Mr. Grand was applying under.

The typical fare, if you will, for the Planning Commission consists of things like site plan review, lot consolidation, lot split, approvals of easements, approvals of the things that relate to the right-of-way and are not quasi-judicial.

The only time the Planning Commission would be considering a variance would be under 1274.

Q So I'm confused. You said that those proceedings would not be quasi-judicial?

A The garden-variety fare would not be quasi-judicial. Site plan review was not quasi-judicial. Lot split approval, lot consolidation approval, those are not quasi-judicial proceedings.

When a variance is being considered or something that relates to use, then you are under the [43] 2506 requirements for quasi-judicial hearings.

Q When you say "requirements," the 2506 provisions aren't requirements, are they?

A Well, my view is that the failure on the part of a municipality to follow 2506, 2506.03 in particular, requirements for a quasi-judicial hearing when the matter being reviewed is subject to quasi-judicial hearing exposes the city's decision to de novo review at the court of common pleas level.

Q Right. To limit the applicant's appeal rights and avoid de novo review, then you would want to follow 2506?

A It would limit the rights of any party having standing to appeal. So it depends on what the decision is.

Q But it -- sorry. I didn't mean to interrupt.

It only goes one way, though, right?

A No. Neighboring property owners can establish standing to challenge his own decision and raise the issue that procedures -- the 2506 procedures are not correctly followed. You can get into an area that touches on this sort of interaction between 2506 decisions or zoning decisions on the one hand and latches on the other.

* * *