

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

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| ST. PHILIP NERI CATHOLIC CHURCH, INDIANAPOLIS, INC. Plaintiff, v. INDIANAPOLIS HISTORIC PRESERVATION COMMISSION, and THE METROPOLITAN DEVELOPMENT COMMISSION, Defendants. | No. COMPLAINT |
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COMPLAINT

Plaintiff St. Philip Neri Catholic Church Indianapolis, Inc. (“St. Philip Neri”), by counsel,
and for its Complaint states:

NATURE OF ACTION

1. The Plaintiff, ST. PHILIP NERI, brings this action to redress injuries caused by the Defendants’ unlawful landmarking of the Plaintiff’s church building and property and refusal to permit it to demolish its structures, which has been relegated (the process by which a church is “desacralized” or turned over to limited secular use—profane, but not “sordid” or unbecoming—by canonical decree of the competent hierarchical authority), and is no longer used by the Church. The actions of Defendants prevent Plaintiff from demolishing the unused and unusable church building and property, and require them to either maintain it at great expense, or find a buyer for the church building and accept the risk that in the future the building could be put to forbidden use in violation of Roman Catholic laws, rules, regulations and doctrine. Both alternatives impose

grave and substantial burdens on the Plaintiff's religious exercise in violation of federal civil rights law and the United States Constitution, as well as state law.

2. Further, in their landmarking of the Plaintiff's church and accessory buildings, and subsequent denial of a certificate of appropriateness to allow the demolition of the church and rectory, Defendants intruded on Plaintiff's religious doctrine and violated its religious autonomy, as evidenced by numerous statements by Defendants' officials opining on Roman Catholic doctrine and substituting their views on religious matters for those of the Plaintiff, in violation of the Free Exercise and Establishment Clauses of the First Amendment of the United States Constitution.

JURISDICTION AND VENUE

3. This Court has jurisdiction over all federal claims in the Complaint as arising under the United States Constitution pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3) and (a)(4), and under 42 U.S.C. §§ 2000cc, *et seq.*, which confer original jurisdiction on United States District Courts in suits to redress the deprivation of rights, privileges and immunities, as stated herein. This Court has pendent and supplemental jurisdiction over all state law claims under 28 U.S.C. § 1367(a). This Court has jurisdiction over the request for declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202.

4. Venue lies in this District pursuant to 28 U.S.C. § 1391. All Defendants and Plaintiff are located in this District. All events giving rise to this action occurred in this District.

PARTIES

5. At all times mentioned herein, Plaintiff ST. PHILIP NERI is a beneficiary of the Roman Catholic Archdiocese of Indianapolis Properties, Inc. Revocable Real Estate Trust Agreement (“Trust”). Roman Catholic Archdiocese of Indianapolis Properties, Inc. holds title to the real estate located at 125 N. Oriental St., Indianapolis, Indiana 46202 (the “Subject Property”), as Trustee for ST. PHILIP NERI, which possesses an equitable interest in the Subject Property.

6. Defendant INDIANAPOLIS HISTORIC PRESERVATION COMMISSION (the “IHPC”) is an agency of the Indiana state government, created and existing by virtue of the laws of the state of Indiana, and is empowered by the State to act through its officials. The IHPC is empowered by the state of Indiana to establish and maintain a register of historic properties in Marion County, Indiana, and to prepare an historic area preservation plan for historic areas of Marion County, and to recommend the plan to the Metropolitan Development Commission for adoption as part of the Comprehensive Plan for Marion County.

7. Defendant METROPOLITAN DEVELOPMENT COMMISSION (the “MDC”) is an agency of the Indiana state government, created and existing by virtue of the laws of the state of Indiana, and is empowered by the state to act through its officials. The MDC is empowered to, among other things, amend the Comprehensive Plan for Marion County, Indiana, by adopting historic area preservation plans as recommended by the IHPC.

STATEMENT OF FACTS

St. Philip Neri Catholic Parish and Its Religious Exercise

8. St. Philip Neri Catholic Church, Indianapolis, Inc. (“St. Philip Neri”) is a parish of the Roman Catholic Church and falls within the authority of the Archdiocese of Indianapolis.

9. The Roman Catholic Church is a hierarchical church, in that its polity requires that all its powers of governance be held and exercised by the presiding Bishop or Archbishop of a particular Diocese or Archdiocese, subject to the religious doctrines and related internal laws of the Church, which are referred to as canon law.

10. St. Philip Neri is a constituent entity within the Archdiocese of Indianapolis, which has been charged with the obligations and benefits of certain Real Estate located at The Subject Property.

11. St. Philip Neri has an equitable ownership interest in the Subject Property.

12. Church doctrine and canon law imposes tenets of faith, rules, laws, limitations and obligations on lay faithful and Catholic houses of worship, as well as on hierarchs such as the Archbishop and the Pastor of St. Philip Neri, who have authority over them.

13. When a Catholic church is constructed, it is dedicated to God and to the worship of God and the sanctification of its members.

14. In or around 1895, the Archdiocese established Holy Cross Church (“Holy Cross”) in response to a growing population of Irish and German Catholics in east Indianapolis, who had settled in the area during the mid-to-late Nineteenth Century.

15. The Archdiocese purchased land at the intersection of Ohio and Oriental Streets on the east side of Indianapolis, now known as 125 N. Oriental St., Indianapolis, IN 46202 (the “Subject Property”) to construct a home for Catholic priests residing at Holy Cross.

16. The Subject Property is owned by Roman Catholic Archdiocese of Indianapolis Properties, Inc. (“Archdiocese Properties”), as Trustee for St. Philip Neri Catholic Church, Indianapolis, Inc. pursuant to the Trust.

17. The Archdiocese also founded a religious day school and established a convent for the Sisters of Providence, who ran the school, at the Subject Property in 1896.

18. The Holy Cross congregation and school grew throughout the first half of the Twentieth Century, reaching 3,000 parishioner families from about 1925, and approximately 400 to 500 students during that time.

19. The early growth of the Holy Cross parish and related schools led to the construction of four buildings on the Subject Property between 1902 and 1948: the Holy Cross School Building (the “School Building”), the Church of the Holy Cross Church Building (the “Church Building”), the Church Rectory, and Fatima Hall/Kelley Hall (“Kelley Hall”), which was used as a parish hall and gymnasium.

20. The School Building was built in 1902 to include the school and a convent for the residence of the nuns who ran the school.

21. The Holy Cross School ceased operations in 2023 and the School Building has sat vacant since then.

22. The existing Church Building on the Subject Property was built in 1922 in the Renaissance Revival style with limestone masonry.

23. The Church Building included exterior religious architectural details reflecting its Roman Catholic faith and are explicitly and deliberately designed to communicate and identify the structure to all as a Roman Catholic Church, to praise God and to exhort those who see it, whether Roman Catholic or not, to reflect upon Jesus Christ and the Word and Glory of God.

24. These architectural details include pointed arch stained-glass windows, a 136-foot tall bell tower ornamented with two large limestone crosses, a front facade also topped with a large

limestone cross, and etchings across the front of the building identifying the structure as the Holy Cross Church.

25. The Church Building is in a serious state of deterioration. The limestone masonry was constructed using metal anchors which have rusted and compromised the structural integrity of the building. It has also allowed water to infiltrate the structure causing water damage to the Church Building.

26. The Church Rectory was built in 1910 and renovated in 1948 and 1954, including an addition in 1954.

27. Kelley Hall was built in 1948.

28. Archdiocese Properties is the Trustee for the Subject Property and all related structures.

29. The Holy Cross Church declined in membership following World War II.

30. In or around December 2012, then-Archbishop of Indianapolis Daniel Mark Buechlein instituted an internal planning process to assess the pastoral needs of the parishes of the Archdiocese of Indianapolis, which became known as “Connected in the Spirit.”

31. The Connected in the Spirit team, which included the Archdiocesan Planning Commission and the Archbishop, reviewed parish data and ascertained that:

- a. “The [Church Building] is in need of significant structural repairs and there is no reserve funding available to pay for the necessary repairs;
- b. while there may be some potential for growth in membership in the parish, it is insufficient to generate funds sufficient to finance the necessary repairs on the [Church Building];

- c. the sacramental records for the parish, while not complete, suggest that there is little if any growth in the numbers of baptisms, adults entering the Church through the RCIA program, or weddings in the parish; and
- d. there is a need for and a potential for enhanced collaborative ministry in the parish should the Church of the Holy Cross Parish be merged with St. Philip Neri Parish;”

32. On May 21, 2014, then-Archbishop of Indianapolis Joseph William Tobin issued a merger decree, known canonically as an extinctive union, between the Church of the Holy Cross and St. Philip Neri (the “Merger Decree”).

33. The purpose of the Merger Decree was to, *inter alia*, “allow for stronger evangelization, faith formation, and vocations programs, as well as effective administration and stewardship of the resources of the unified parish” and “allow for a pastorally necessary allocation of limited resources and personnel, particularly priests.”

34. The canonical effect of the Merger Decree was the formal extinction of the Parish of the Holy Cross, and all parishioners of Holy Cross becoming parishioners of St. Philip Neri. Also under the Merger Decree, all the assets and liabilities of the Church of the Holy Cross were transferred to St. Philip Neri.

35. After the Merger Decree took effect on November 30, 2014, St. Philip Neri continued to hold Mass in the Church Building.

36. In 2015, the portico of the Church Building collapsed with debris falling onto the Subject Property as well as onto Ohio Street. The collapse caused damage to the front steps and sidewalk. The area was cordoned off and remains so today.

37. Given the poor structural condition of the improvements, the Archdiocese stopped using the Subject Property for religious purposes and fenced it off from public use.

38. St. Philip Neri has solicited bids for the repair and renovation of the Church Building located on the Subject Property, and has received estimates that it will cost between \$7.5 million and \$8.5 million to repair and renovate the buildings to a usable condition.

39. St. Philip Neri cannot afford the costs for such repair and renovation.

40. Due to the deteriorating condition of the Church Building, St. Philip Neri has not been able to use the Church Building for religious purposes and has fenced it off from the public.

41. On February 24, 2019, the pastor of St. Philip Neri, after consulting with his finance and pastoral councils, requested that Holy Cross Church be relegated to profane but not sordid use, a process also known as deconsecration.

42. On May 11, 2019, Archbishop Charles Coleman Thompson determined there was a sufficiently grave reason and issued a Decree relegating the Church Building to profane but not sordid use (“Relegation Decree”).

43. Catholic canon law imposes on the Archbishop specific obligations regarding the protection and reuse of religious symbols located in the interior or upon the exterior of Churches that are deconsecrated and relegated to profane but not sordid uses, including, in certain instances, an obligation to safeguard religious symbols to prevent use and display in a fashion inconsistent with their sacred nature.

44. Once relegation occurs, but prior to a church property being converted to an acceptable profane use, all sacred objects within a church are catalogued and removed from the church for continued sacred re-use with a welcoming parish or other Catholic church or buildings.

45. Consistent with these obligations, and following the Relegation Decree, sacred consecrated hosts, relics, the altar, stained-glass windows, and sacred art was removed from the interior of the building.

46. Because of the unconstitutional interference by the City and its IHPC, one side altar, the consecrated bells, and a few stained-glass windows remain and are now unable to be removed due to the historic designation.

47. The stained-glass windows of the Church Building removed prior to the historic designation were sent to a Catholic Church in southern Indiana.

48. Certain religious features or aspects including details such as Chi Rho reliefs on the doors, and inscriptions on the exterior of the building, as well as the inextricable connection between Holy Cross Church and the Catholic faith, cannot be simply removed.

49. The multiple limestone crosses, along with the large bell tower, are religious expressions by the Catholic Church to all who see them.

50. The continued maintenance of the unusable Subject Property forces St. Philip Neri to incur substantial costs, which is a significant portion of the parish's operating budget for the entire year.

51. The use of these funds – necessitated by the historic designation of the Subject Property – has required St. Philip Neri to defer maintenance on the building its congregation actually uses for worship and to divert them away from programs in furtherance of St. Philip Neri's religious mission, thereby burdening that mission.

Marion County, Indiana's Regulation of Historic Structures

52. The IHPC is organized pursuant to the laws of the State of Indiana.

53. The Mayor and City-County Council appoint the members of the IHPC pursuant to Section 36-7-11.1-3(a)-(b) of the Indiana Code.

54. Pursuant to the laws of the State of Indiana, the IHPC may prepare historic preservation plans, and then, by passing a resolution, submit them to the MDC for consideration as part of the comprehensive master plan of the County.

55. The IHPC is part of Indianapolis' Department of Metropolitan Development ("DMD").

56. The Director of the DMD has several duties, including to "Provide advice and assistance to the historic preservation commission, as established by IC 36-7-11.1, and the administrator of its staff in coordinating the programs and policies of the department with historic preservation programs and policies, to review the work program of the commission as provided by IC 36-7-11.1-4 and to provide advice in the appointment of the administrator as provided in IC 36-7-11.1-4."

57. The Metropolitan Development Commission ("MDC") functions as the board of the DMD, with several of its own related and independent duties, and is organized pursuant to the laws of the State of Indiana.

58. A Historic Preservation Plan is "prepared by the Indianapolis Historic Preservation Commission (as per IC 36-7-11.1-6) and adopted by the Metropolitan Development Commission (MDC), designating one or more historic areas or structures as having historic or architectural significance. This historic preservation plan, once adopted by the MDC, shall be considered a part of the county's comprehensive plan."

59. Once the IHPC adopts a resolution to recommend a preservation plan, the MDC may then pass a resolution to adopt the preservation plan, which has the effect of amending the Marion County comprehensive plan.

60. Once the MDC adopts an historic preservation plan for an area, Indiana law prevents the MDC from issuing any permits related to any structure within the historic preservation area, such as for alteration or demolition unless the applicant provides a “certificate of appropriateness.”

61. Only the IHPC may issue a “certificate of appropriateness.”

62. The MDC authorizes the IHPC to exercise its powers within any historic district that has been adopted pursuant to Section 36-7-11.1 of the Indiana Code.

The Historic Designation

63. In early 2024, approximately 10 years after the parish merger and since the Church Building was closed to the public, Father Dufresne scheduled a meeting with the leadership of the “Holy Cross Neighborhood Association” (the “Neighborhood Association”) to hear their concerns regarding the future of the church building. When the parish’s religious discernment was completed, he sent a letter to inform the members of the neighborhood association that the Church Building and Rectory would be demolished. The intention behind the letter was to avoid surprising the neighborhood.

64. St. Philip Neri sought to demolish the buildings on the Subject Property to eliminate the dangers to the public of the deteriorating building, to avoid spending additional substantial funds on building maintenance of a building that was no longer a Catholic church and other buildings on the property, to remove the religious obligation of St. Philip Neri to ensure that

the church building is never in the future used in a forbidden manner, and to prepare the Subject Property for sale to fund St. Philip Neri's religious mission.

65. In response, and to prevent demolition, the Neighborhood Association started a petition to designate the Subject Property as a historic landmark.

66. Indiana Landmarks filed an emergency petition with the IHPC to landmark the Subject Property to prevent demolition.

67. Indiana Landmarks is a nonprofit organization that describes itself on its website as one that "help[s] people save and revitalize historic places."

68. Indiana Landmarks was motivated to apply for the historic designation of the Subject Property based on Plaintiff's plan to demolish the Church Building and Rectory.

69. The IHPC moved forward with an emergency designation.

70. Prior to the designation, the IHPC did not visit the interior of the Church Building, meet with the pastor of St. Philip Neri, or engage any experts to review the repair costs for the Church Building or any other structure of the Subject Property.

71. The IHPC drafted Historic Area Preservation Plan – 44 (the "Preservation Plan"), a part of the Comprehensive Plan for Marion County, Indiana, which would historically designate the Holy Cross School Building, the Church of the Holy Cross Church Building, the Church Rectory, and Kelley Hall.

72. The Preservation Plan did not include any information related to the collapsed portico or the fact that the structure had been closed to the public for nearly ten years due to its unsafe condition.

73. The Preservation Plan included as its “Preservation Objectives”: “The subject structures on this campus, exterior features of the site and architectural and historic character thereof shall be preserved as a significant resource of Indianapolis and Marion County.”

74. The Preservation Plan included the following “Preservation Criteria”:

- a. “Any development, construction, reconstruction, restoration, or alteration of the subject structure’s interior, exterior, or site shall be appropriate to the property’s historic and architectural values and significance.
- b. Any development, construction, reconstruction, restoration, or alteration of the exterior shall be visually compatible and appropriate in function, general design, arrangement, color, texture and materials to the design and character of the historic area.
- c. The IHPC shall use the *Secretary of the Interior’s Standards for the Treatment of Historic Properties: With Guidelines for Preserving, Rehabilitation, Restoring & Reconstructing Historic Buildings* to determine appropriateness when it reviews and makes decisions regarding development, construction, reconstruction, preservation, restoration, alteration, and demolition in the historic area.”

75. On its face, the Preservation Plan thus invokes the color of state law to unlawfully impose IHPC authority over religious features and aspects of this Catholic Church property, including the immovable religious symbols on the exterior of the Church Building.

76. On the afternoon of March 25, 2024, the IHPC Administrator contacted the Archdiocese Properties’ general counsel and informed him that on March 27, 2024, there would

be a public meeting of the IHPC with respect to a certain resolution declaring the Subject Property of historic significance. This was the first notice to the Plaintiff of such a public meeting.

77. The IHPC's website includes numerous public notices and meeting minutes of the IHPC.

78. The Preservation Plan states that the IHPC adopted the Preservation Plan on March 27, 2024.

79. There is no public notice of a March 27, 2024 meeting, nor are there any minutes of a March 27, 2024 meeting available on the IHPC's website.

80. Upon information and belief, the failure to include notice of a hearing related to the Preservation Plan or to provide public meeting minutes related to the adoption of the Preservation Plan is a deviation from the IHPC's procedural norms.

81. Nonetheless, and despite the short notice, Plaintiff's counsel attended the March 27, 2024 IHPC hearing and objected to the historical designation.

82. The MDC adopted the Preservation Plan on April 17, 2024 through the adoption of 2024-HP-001.

83. The statements of IHPC officials, as detailed below, establish that the Preservation Plan recommendation, and its subsequent adoption by the MDC, were based on the officials' interpretations of Roman Catholic canon law, a desire to substitute their judgments on religious matters for those of the Plaintiff, and a distortion and an excessive entanglement of government officials with religious doctrine.

84. The MDC Minutes of its April 17, 2024 MDC meeting do not include any discussion of or reference to the Preservation Plan or Holy Cross Church.

85. Upon information and belief, the failure to include notice of a hearing related to the Preservation Plan or to provide public meeting minutes related to MDC's adoption of resolution to amend the Master Plan is a deviation from the MDC's procedural norms.

86. The MDC's Rules of Procedure require that all petitions be filed at least thirty-five (35) days prior to the initial hearing at which they are to be considered, unless otherwise requested by the petitioner and approved by the Administrator.

87. Upon information and belief, a petition to adopt the Preservation Plan was not filed at least thirty-five (35) days prior to the initial MDC hearing at which it was to be considered.

88. The failure to follow its own Rules of Procedure would constitute an act of arbitrariness by a deviation from procedural norms in the handling of the historical designation of the Subject Property.

St. Philip Neri Seeks Permission to Demolish Two Religiously Significant Buildings

89. Since the entire purpose of the historical designation was to prevent demolition, it was unlikely that the IHPC would approve any plan for demolition.

90. Archdiocese Properties nonetheless filed its Petition #2025-COA-351 (HC) to the IHPC on or about August 27, 2025 (the "Demolition Application").

91. Archdiocese Properties, as Trustee of the Subject Property, sought a certificate of appropriateness authorizing the demolition of the Church Building and Holy Cross Rectory in a safe, controlled fashion.

92. The certificate of appropriateness would allow for the removal of the Church Building (to which the Rectory is physically connected), which has religious significance and

which is inappropriate to be repurposed. The Kelley Hall and School would remain and could be revitalized for other economically feasible purposes.

93. Plaintiff further requested removal of the historic designation, adopted in the Preservation Plan, pursuant to Indiana Code § 36-7-11-23.

94. The IHPC held a hearing on the Demolition Application on October 1, 2025.

95. The October 1, 2025 IHPC hearing was dominated by efforts by officials and commenters to critique and even to ridicule the religious determinations of Plaintiff and individuals associated with the Archdiocese and St. Philip Neri, to substitute their judgments about Roman Catholic religious doctrine for that of the Plaintiff, and to disrupt and intrude on the religious autonomy of the Plaintiff.

96. Multiple governmental officials provided their statements and opinions on what “the Church” is and what Roman Catholicism requires of Plaintiff, creating a decision making environment for the Demolition Application that was entangled with religious opinions and distorted religious concepts.

97. The religious statements by the Members at the October 1, 2025 IHPC hearing on the Demolition Application were so pervasive that it was impossible to separate the religious opinions and statements from any secular basis for consideration of the legal criteria meant to guide the IHPC’s decision making.

98. The IHPC’s Procedures specify that “[a]pplicants and remonstrators, respectively, are permitted a total of twenty (20) minutes for the presentation of evidence, statements, and arguments at the public hearing of every case before the Commission or Hearing Officer.”

99. Neither side at an IHPC hearing is permitted to cross examine witnesses or object to any testimony.

100. Plaintiff's counsel began the hearing by presenting the Demolition Application at the October 1, 2025 IHPC hearing and informed the IHPC of the Church's canonical requirements and that the Church Building would not be sold.

101. Plaintiff's counsel informed the IHPC that Plaintiff's presentation would involve presentations by Father Dufresne and a representative of Arsee Engineering, which had prepared an engineering evaluation and preliminary renovation estimate for the Church Building that had been submitted to the IHPC.

102. Plaintiff's counsel also testified that once the Church Building and Rectory had been demolished, the Plaintiff would sell the remaining two buildings and the land of the Subject Property for redevelopment and revitalization of the area.

103. Father Jeffrey Dufresne, pastor of St. Philip Neri, also addressed the IHPC.

104. Father Dufresne informed the IHPC of his ultimate responsibility under canon law to ensure that any use of the Church Building and Rectory be in accordance with the dignity of a church building in perpetuity, and that after prayerful reflection he determined that demolition of the structures was the appropriate choice.

105. A member of the public, unaffiliated with Plaintiff, stood up to speak next. He stated that he was motivated to speak by hearing other attendees laughing and joking during Father Dufresne's remarks about religious freedom. This individual spoke for approximately four minutes altogether, using up one-fifth of the time allocated for the Plaintiff.

106. Plaintiff's engineer attempted to speak to the IHPC about the condition of the Church Building and costs for repair, but the Chairman told him that he had only one and half minutes remaining and would have to limit his comments. He had to end his incomplete presentation due to the twenty-minute time limitation.

107. The IHPC next heard from objectors at the October 1, 2025 hearing, which uniformly displayed disregard for, and hostility to, Plaintiff's sincere and deeply held Catholic beliefs.

108. The first, the chair of the "Holy Cross Land Use Committee," suggested that the Church Building – despite the uncontroverted religious testimony to the contrary – could be repurposed into a performing arts center, with a coffee shop and bookstore.

109. He also spoke about other Catholic churches that he stated had been reused and invited the IHPC to rely on his lay interpretation of Vatican documents over Father Dufresne's testimony.

110. A representative of Indiana Landmarks next addressed the IHPC, giving his business address and offering it as, "A great example of a historic church building that has been adaptively reused for other purposes."

111. The Indiana Landmarks campus is located in a former Methodist Church, a church unrelated to the Roman Catholic Church and its canon law, and the repurposing of which is subject to entirely separate theological requirements.

112. The Indiana Landmarks representative attempted to cast doubt on the sincerity of Father Dufresne's interpretation of Roman Catholic canon law and again invited the IHPC to weigh his layman's competing interpretation, telling the IHPC that, "I fully respect, and I want to make sure this is really clear, I fully respect the values and the belief system of Father Dufresne and the Catholic Church and the decisions that they feel like they need to make, um, and I guess those would be further reinforced if, as [the chair of the Holy Cross Land Use Committee] just pointed out, that we didn't know of other examples in the Indianapolis Archdiocese that they had allowed for the use of other Catholic churches that closed and/or, uh, marketed them for sale."

113. He then gave two examples of other Catholic churches as support for his argument although neither characterization is supported by the facts.

114. The first example, St. Michael the Archangel Church, was donated to Historic Madison, Inc. in 1993 and has sat largely unrestored for 30 years.

115. Historic Madison, Inc. has subsequently sold the St. Michael the Archangel rectory for use as a private home.

116. The second example, Our Lady of Providence in Brownstown, Indiana, was merged into another parish in 2016 as part of the same Connected in the Spirit planning process that included Holy Cross. Archbishop Thompson signed an Order relegating Our Lady of Providence to profane but not sordid use in March 2025. Our Lady of Providence has not been sold or marketed for sale and disposal will be subject to the rules, laws, and limitations of the Roman Catholic Church.

117. The Indiana Landmarks representative then stated that, “So, I’m going to need some convincing as to why that can’t work in the case of Holy Cross,” before ultimately asserting that Indiana Landmarks was “open to dialogue” with the Archdiocese to determine the use of the Church Building.

118. The next individual to speak in opposition to the Demolition Application lives more than seven miles away from the Subject Property. He, too, invited the IHPC to disregard the Plaintiff’s sincerely held beliefs about the disposition of the Church Building, speaking of the “cultural importance of the structure outside of looking at it through a religious lens. The Church has to be separate from the State, but removing the historical status seems to prioritize the Church’s laws over the State’s laws. Yeah, if the Church does not want to keep paying for it, I suggest they

sell it with contingencies on the occupancies and use that take place as you guys have heard there are precedents to do that. . . . All that to say this parish should not perish.”

119. Jesse Brown, the City Council member for the district in which the Subject Property next stood to speak in opposition, and the IHPC stopped the timer for him.

120. Councilor Brown discussed his previous letter in support of the historic designation and how he had spoken in favor of the designation, saying that he was there to “double down on that support.”

121. Councilor Brown then expressly invited the IHPC to give his lay understanding of Roman Catholic canon law preference over that of Father Dufresne and Plaintiff, identifying himself as a “confirmed Catholic” and discussing how other Catholics supported his statements at the prior meeting. Councilor Brown stated: “But I deeply disagree that canon law universally requires these kind of structures to be demolished rather than reused. As they mentioned, there is substantial documentation from the Vatican itself that suggests it’s not only permissible but desirable to reuse buildings for charitable or cultural purposes.”

122. He continued, “It really hurts me that it feels that the Church is creating contention and disagreement here where there should not be any. I believe everyone in this room shares many of the same values. We all value our neighborhoods and the people who live in them. We all love our neighbors. We all want more culture, more reverence and more fellowship in our society. Though not everyone in this room might call themselves Christians, I can say for myself that these values are at the very core of my Christianity and it’s so deeply disappointing that the Catholic Church is resorting to repeated unilateral actions to attempt to defy the supermajority will of the neighbors, families and community members who love and want to protect the buildings.”

123. He then repeated remarks he said he had made “last spring,” stating that “[t]he etymology of the word Church has nothing to do with a building. It has everything to do with the community. Disregarding the needs of the community and instead treating the building as the most important consideration flies in the face of my understanding of Christianity. In a neighborhood as in a democracy, we can never guarantee total unanimity about how to govern but I would challenge anyone here to find a local issue with so many community partners on one side and a single land owner standing on the other.”

124. Councilor Brown was speaking as a governmental representative, and not in his personal capacity, as reflected by the IHPC stopping the time accorded to each party for Councilor Brown’s remarks.

125. The MDC’s adoption of Resolution 2024-HP-001 created excessive entanglement between government and religion by creating an environment in which Plaintiff’s Demolition Application was subjected to a public hearing in which government officials offered opinions about competing interpretations of Church doctrine and law.

126. The next speaker in opposition to the Demolition Application also lives more than five miles away from the Subject Property. He identified himself as a former Historian for the IHPC and a “a proud practicing Catholic,” and spoke about a Franciscan Friary that had been demolished in the 1980’s along with the “the nickels and dimes that my grandparents and great-grandparents saved to build these Church buildings and the Friary and how these second generation Irish in Holy Cross got their own parish and they’re the ones that built the Church. It took their money. They paid the architect. They paid the contractors to build something lasting, for not just themselves, but for all eternity. ” He discussed other repurposing of Catholic institutions of which

he was aware, including a church now used as a brewery and bar, which he referred to as a “glorious use.”

127. The next speaker in opposition lives a little over three miles from the Subject Property. She began her remarks by stating that her connection to the Subject Property “is that I served as the last school librarian for Holy Cross Central School before it closed.” She stated that she had never been inside the Church Building “because it was closed by the time I joined in 2021, um, it’s a landmark, and I live on the east side and drive by it all the time and always check to make sure that it’s still there. It’s interesting that Father Dufresne brought up dignity, and the speaker before me, um, also brought up the, um, poor immigrants who gave their money to build the Church. In my opinion, um, dignity for those folks and, the people who have done hard work, important work, on this property, would be to give these buildings a new life.”

128. Prior to voting on the Demolition Application, IHPC members made public comments.

129. Commissioner Krystin Wiggs raised the possibility of further sanctioning Plaintiff for not renovating or selling the Subject Property, noting that, “it seems nothing has really changed as far as movement from the church’s side. The demolition by neglect is something that is concerning to me, to just let it keep going and going and no agreement. So in residential situations, when something falls into disrepair and neglect, the department’s business and neighborhood, sorry, BNS, will cite the owner; your roof is falling down, it’s a danger to everyone. Does that happen? Is it an option here?”

130. Commissioner Annie Lear took the opportunity to advise Father Dufresne and Plaintiff on the nature of the Catholic Church. She stated, “In some ways, I don’t even know where to begin. So I will try to be respectful, and brief, and I have no different feeling than I did a year

and a half ago when this came to us, that, just the sadness of the missed opportunity for the church that you're speaking about to serve the community that it's, it's at the heart of. It's not that I don't respect the cost and all of those things that are involved but, like, the church is the people—these people, so I think what I find so frustrating is the lack of desire, um, and I understand the argument around canon law and all of that, but what I don't understand is the desire to work with the people in the neighborhood and Indiana Landmarks and those people to have a use of it that would serve your faith. I mean, I guess that's what I don't really understand and so it's just—it just feels like a missed opportunity here, and, just, the stalemate of, oh no we're not, we're going to hold the line on this because we don't want to do this when there is many examples tonight where it has been done and been done wonderfully. It's reflected well on your faith and it's served the community. So that's what I guess that's what I don't really understand here is just the missed opportunity and, I guess, back to Father Dufresne's statement, this isn't a matter of whether you can be objective, whether you're Catholic or not. That has nothing to do with this and we, as a historic preservation organization shouldn't be shamed or put down because we are prioritizing the history of the building when we all stand on the backs of everyone that has come before us.”

131. Commissioner Lear was acting under color of state law at all times that she opined on who is or should be considered to be part of “the church.”

132. Commissioner Lear's comments constituted an intrusion on and interference with Plaintiff's religious autonomy and an entanglement of the state with religious doctrine by substituting her understanding of the nature of the Roman Catholic Church and Roman Catholic doctrine for that of the Plaintiff.

133. Commissioner Anjenette Sivilich read from a pre-prepared statement on a laptop in front of her, addressing Plaintiff and quoting Pope Francis. She stated: “I am fully for the freedom

of religion. And I was trying to understand your point of view, as a Catholic, and how that fits in as the world Catholic view. Current canon law – please bear with me since I need to read this¹ – um, was enacted nearly 42 years ago. Thoughts, ideals and goals can easily change in the span of time, especially in the modern age. One of the secondary goals of preservation is to preserve world resources and to be a good steward to our planet. The preservation of a structure, even if it is in fair-to-poor condition has a significant amount of embodied energy. This energy that would otherwise need to be used to demolish an existing structure, source, and ship new products and build a new structures [sic]. This is a key point when trying to reduce carbon emissions, pollution and ever-expanding landfills. In his June 2015 [sic] Pope Francis stated that the encyclical is for everyone, not just Catholics. In this message it stated that Pope Francis has added the voice of the global Catholic Church to the goals on the legally binding framework to decarbonize our societies as a matter of urgency. The science on climate change is already clear. Pope Francis has now clearly outlined the moral and spiritual arguments for taking action. Pope Francis makes clear that everything is interconnected. We are custodians of this planet and we have a clear moral obligation to ensure that everyone has access to its abundant resources, and that we hand it to future generations in a condition that is compatible with life. In November of 2018, the Pontifical Council for Culture along with the Italian Episcopal conference and Pontifical Gregorian University held an international conference that discussed for two days the issue at hand in this case, the resultant document guidelines decommission an ecclesial re-use of churches is quite clear regarding the Vatican's position of profane use of alienated immovable goods. The document states that the Church authorities and community are to dialogue, work with the local community, and civic

¹ At this point the Commissioner turned to a laptop that she had open on the table in front her.

authorities to find a new use for that asset rather than destroying a valuable cultural heritage site.
...”

134. Commissioner Sivilich was acting under color of state law at all times that she characterized the pronouncements of the Vatican and other Catholic institutions and opined on the requirements of the deconsecration of Catholic churches.

135. Commissioner Sivilich’s statements constituted an intrusion on and interference with Plaintiff’s religious autonomy and an entanglement of the state with religious doctrine by substituting her interpretations of Roman Catholic canon law, her view of the authority of the Pope and the Pope’s position with regard to aspects of Roman Catholic canon law, her views of the authority and interpretation of Pontifical Councils, and Roman Catholic religious doctrine, for that of the Plaintiff.

136. Commissioner Keller asked Plaintiff’s counsel why there was deferred maintenance of the Church Building for many years, and in response to Plaintiff’s counsel’s answer that the structure had not been deemed historic until 2024 and that the Church had been considering many offers and ideas for the last ten years, Commissioner Keller responded that, “You’re trying to have your cake and eat it too. You’re-You’re saying, oh, this is a sacred space that has inherent dignity as a place of worship but then you’ve allowed it to fall into a state of disrepair that is beneath its dignity. So, which is it? Is it a dignified space that needs to be saved from a sordid use or is it a structure that needs to be demolished because it’s fallen into such disrepair. I don’t think you can have it both ways.”

137. Commissioner Keller was acting under color of state law at all times that he was suggesting Plaintiff had unintentionally waived its right to determine the religiously appropriate course of action with respect to the Church Building.

138. Commissioner Keller also read from prepared statements and questions on a tablet positioned in front of him. He asked Plaintiff, “You cite, repeatedly, the risk of this falling—this property falling into sordid use. There’s no definition—no real definition of sordid use at least that I’ve been able to find – the fact that you believe it’s such an imminent risk, can you cite an example, uh, in the Archdiocese catchment of property that has fallen into sordid use?”

139. When Plaintiff’s counsel began to cite the previously-mentioned St. Joseph’s church, Commissioner Keller interrupted him to say: “The Brewery? Somebody better notify the Trappists.”

140. The audience in attendance laughed and cheered at Commissioner Keller’s statements. When Father Dufresne rose to speak, he had to wait for the audience’s laughter and applause to die down. The IHPC chair did not admonish the audience.

141. Father Dufresne responded to the question, in part, saying “The fact that we’re discussing the Catholic Church’s criteria for sordid use or profane use is an illustration of exactly what our concerns are about these proceedings, that they’ve, uh, wandered into Church matters and out of the realm of the IHPC’s mandate.”

142. Commissioner Keller argued that, “We aren’t trying to define what’s sordid, we’re asking you to define, or asking one of your representatives to give us a single example, a single citation or sordid use and it, if it’s such an imminent risk, you should be able to rattle a few off and you cited one that seems like, maybe, but probably not because, you know, what’s the sordid behavior?”

143. Plaintiff’s counsel replied that the Vatican defines a for-profit business as a potentially sordid use.

144. Commissioner Keller continued to argue this point, responding “Potentially . . . but what’s the potential? I mean, where does it move from potential to actual?”

145. Plaintiff’s counsel’s continued attempts to respond – all of which answers concern deep and significant matters of Catholic theology not appropriate for lay discussion at public hearings under color of state law – did not satisfy Commissioner Keller. He stated, “Again, you’ll forgive us if the term dignity is given a little less weight because, again, letting it fall into a state of disrepair is – some people, and I’m not a canon lawyer either, but I do believe some people would, uh, recognize that as desecration of a sacred space. So, you want us to respect your religious freedom to honor the risk of a sordid use but are unable to cite any sordid uses. It just doesn’t seem like the risk that you’re making it out to be, so I just don’t think we can consider the, the, things you presented because they just don’t seem to be as you presented them.”

146. Commissioner Keller’s comments constituted an intrusion on and interference with Plaintiff’s religious autonomy and an entanglement of the state with religious doctrine by substituting his understanding of the nature of Roman Catholic canon law and Roman Catholic religious doctrine for that of the Plaintiff.

147. Commissioner Mike Bivens, an attorney, spoke next. Commissioner Bivens referenced Commissioner Keller’s question before admonishing Plaintiff for “looking for a fight,” saying, “Could you give us an example of what could happen? I don’t think he was trying to judge, uh, the validity of the Church’s definition of sordid as I might have understood Father Dufresne to say, or suggest, um, we’re trying to help, and I’m proud to be part of this body that’s bent over backwards trying to help so many congregations over the decades, uh, solve the problems that they have in protected districts and, uh, it seems like the Applicant has come in here looking for a fight where none exists. We’re not a political body. We have guidelines. We’re not going to opine on

constitutional law or canon law. We're going to look at our guidelines – what-what's our mandate, uh, make an educated decision based on the evidence and, uh, wish everybody well. That's what we do, so, uh, instead of coming in here, uh, looking for confrontation or debate, maybe we just, tell us what you need to help get you where you need to be and we can find a way, we have resources we can direct you."

148. Commissioner Bivens continued, stating, "Uh, I don't think, uh, anyone wants to make social commentary or some kind of ideological debate on why a church wants to demolish its structures. That's – we have our guidelines. If you tell us that it's against your religion to, uh, let anybody else use your church for any reason, we'll have to take that as the truth. But, that is not a fight that we fight, we can only look at our rules. I think you understand what I'm saying."

149. Commissioner Bivens next asked staff about Plaintiff's claims that the effort to designate the Subject Property was rushed.

150. Staff of the IHPC confirmed that the IHPC enacted the "emergency designation," in reaction to Plaintiff's stated intent to demolish the Church Building and Rectory and for the express purpose of preventing them from doing so.

151. Commissioner Bivens next asked Plaintiff for the specific canon law that prevented the reuse, and when Father Dufresne responded that it was the fear of the building falling into sordid use, Commissioner Bivens responded that he would assume that there wasn't one that wasn't "obvious to us."

152. Commissioner Bivens' comments constituted an intrusion on and interference with Plaintiff's religious autonomy and an entanglement of the state with religious doctrine by questioning that sought to parse and second-guess Plaintiff's understanding of the nature of Roman Catholic canon law and Roman Catholic religious doctrine.

153. Commissioner Disa Watson-Summer next addressed Plaintiff, stating “Both of you addressed freedoms that you felt having historic preservation coverage stopped the Archdiocese from having the freedom to do what it wanted to do with its property. My question is when Holy Cross was closed, did the priest at Holy Cross tell his parishioners you have a choice of which church you’re going to attend? Or did he tell them ‘you’re going to go to St. Philip Neri and that’s where all of your records will be sent to?’”

154. Plaintiff’s counsel responded that there is an appeals process in the event of a closure of a Church and as to parishioners, “I don’t believe anyone tells anyone where they have to go to church.”

155. Commissioner Watson-Summers responded, “You, the Archdiocese, can’t say that, we, we are being – our freedom is being taken to do what we want with our property when, you close the church, you took away those parishioners because, as good Catholics you’re going to follow, y-you listen to your priest. That’s what you’re taught. And so, when he said, you’re going to St. Philip Neri, that’s where they went. They weren’t told that, even though the church is closing, you can select what parish you’re going to start visiting and worshipping, and you let us know and we’ll send your records there. And that’s a freedom that wasn’t handled that way and that they didn’t have. What you’re stating, as one of your objections for the historical preservation coverage that your freedom – the Archdiocese’s freedom is being stifled because they can’t just tear down a piece of property because they want to. So, I mean, this is something to look at. I know you have been given a directive, as well as the pastor has, as to what the Archdiocese wants. But, maybe and if, if you have a discussion point, that’s something you can bring up, not only do you have a freedom, all the parishioners have a freedom. All of those parishioners from Holy Cross have a freedom. And your – the destruction of a church, you’ve already closed it, which

took away their connection to the church they had chose [sic] to attend either through family history or just deciding, I want to be a part of this church. When you closed it you took that. So now, the next step, you want to take the building and tear it down. So that wipes away. And you bring in canon law, can you tell me which canon law you were speaking of, that says, you know, a sacred place, but you also talked about when you walk in that place that you can feel the prayers that have been prayed over years and years, what better place would that be to reestablish another entity. Could you imagine? Whether it be apartments – the apartments in the church that was on Meridian, and I think St. Clare, that was turned into apartments, to being a building where all of these prayers had been prayed over and over whether, you know, make it into a youth center, can you imagine the feel of that? And how you're actually putting something positive into the community and the atmosphere.”

156. Commissioner Watson-Summers’ questions, hours into the hearing on the Demolition Application, had nothing to do with any historic preservation or land-use criteria, but solely matters of Church practice and governance.

157. Commission Watson-Summers’ comments and questions constituted an intrusion into and interference with Plaintiff’s religious autonomy and an entanglement of the state with religious doctrine by substituting her non-Catholic understanding of the nature of Roman Catholic canon law, Roman Catholic religious doctrine, and her personal views of what a “good Catholic” should do for those of the Plaintiff.

158. Commissioner William A. Browne, Jr. was the final Commissioner to speak. He asked a question based on the falsehood regarding Our Lady of Providence stated by the representative of Indiana Landmarks, asking, “Can you cite why this is different than the other

church that was sold, during this time, since the designation, and it was allowed to be sold? What's unique about this situation that's such that it needs to be handled differently?"

159. Plaintiff's counsel responded by stating that although the building had been relegated by the Archdiocese, it had not been sold and any decisions as to the sale would be made by the pastor of that parish, just as Father Dufresne had made the decisions in this case.

160. Commissioner Browne responded by derogating the "opinion of one individual" over the matter, meaning Father Dufresne, who alone had the constitutional competence, and referring to the IHPC as a body that may have a differing opinion, before continuing that "It doesn't seem realistic to have an entire neighborhood which is supporting this facility, you know, wanting to take care of it in a proper way, being respectful of it, and yet one individual is not giving a good enough reason other than we just want to demolish it because that's what I want to do. And that really isn't going to hold a lot of water with me personally, it's likely not going to hold much water with this, with this Commission."

161. Commissioner Browne's comments reflect a substitution of his personal views of how decisions of the Roman Catholic Church should be made and an intrusion into and interference with the religious doctrines and religious autonomy of the Roman Catholic Church.

162. On October 1, 2025, the IHPC unanimously voted to deny the Demolition Application.

163. When Commissioner Browne announced that the motion to deny the Demolition Application had passed unanimously there were cheers and whooping from the crowd. Commissioner Browne did not admonish the crowd or ask them to be quiet.

164. The IHPC's Findings of Fact and Reasons for Denial (the "Denial") included:

- a. “The denial does not deprive the owner of all reasonable use and benefit of the property. The applicant states that they have no use for the property and desire to sell it, what [sic] they want it [sic] to sell the property without the church building on it. Denial does not preclude the applicant from not using the property, from selling the property, or for another user to reuse the buildings, similar to many other former Catholic churches.”
- b. “Approval would have a substantial negative effect on the historic integrity of the area. The church is the centerpiece of the district, and the namesake of the surrounding neighborhood. Demolition of the buildings erases the history and architecture of the site, for the neighborhood and the city.”

165. The IHPC weighed competing testimony about interpretations of Roman Catholic canon law and decided that certain interpretations were more credible than others.

166. The IHPC’s reasoning in the Denial mirrors statements made by objectors at the October 1, 2025 hearing, which uniformly displayed disregard for, and hostility to, Plaintiff’s sincere and deeply held Catholic beliefs.

The Defendants Have Violated the Plaintiff’s Rights

167. The MDC’s adoption of 2024-HP-001 forecloses any ability of Archdiocese Properties to alter, renovate, demolish, or otherwise modify the Subject Property without the approval of the IHPC or else be subjected to civil penalties, including assessment fees.

168. The MDC’s adoption of 2024-HP-001 requires the Plaintiff to maintain a church that is closed, deconsecrated, and no longer usable as a church at considerable expense and

prevents them from selling the property due to the concern that the church building could in the future be put to a forbidden use in violation of Roman Catholic canon law.

169. The IHPC's denial of the Demolition Application forecloses any ability of Archdiocese Properties to demolish the Church Building and Rectory.

170. The IHPC has demonstrated an entrenched position that they will not approve any demolition of the Church Building and Rectory.

171. The MDC's landmarking of the Subject Property and the IHPC's denial of the Demolition Application have subjected Plaintiff to delay, uncertainty and additional expense related to the Subject Property.

172. By prohibiting Plaintiff from demolishing the Church Building and Rectory, the Defendants have burdened Plaintiff's religious exercise.

173. Defendants have no compelling or legitimate governmental interest that requires this burden on the Plaintiff's religious exercise.

174. Defendants' actions are not the least restrictive means of advancing any governmental interest.

175. The Defendants' interpretation and evaluation of Roman Catholic canon law, both by relying on statements of government officials regarding religious doctrine and statements by other persons, in the denial of the Demolition Application constituted impermissible government intrusion into and interference with religious doctrine, interference with Plaintiff's religious autonomy, and discrimination against the Plaintiff.

176. In designating the Plaintiff's property as a historic landmark, the Defendants made an individualized determination regarding the use of Plaintiff's property.

177. The Defendants were executing a policy of preventing alteration to the Subject Property that resulted in a violation of the Plaintiff's rights.

178. The Defendants' actions caused the Plaintiff to suffer injury, including additional costs associated with the Demolition Application and necessary maintenance to the Subject Property.

179. The harm to the Plaintiff caused by the Defendants' historic landmark designation of the Subject Property, which prevents the Church from stewarding its resources in accordance with its religious mission, is immediate and severe.

180. Plaintiff has no adequate remedy at law for the harm and damage caused by Defendants' wrongful actions.

181. The denial of the Demolition Application was a final decision and was not reviewable by any other administrative body.

182. The demolition activity related to the proposed demolition of the Church Building and Rectory would affect interstate commerce.

183. The demolition's effect on interstate commerce would result from, among other things, the Plaintiff's transfer of funds to those it engages to perform the demolition; the engagement of a demolition company to demolish the Church Building and Rectory; the marketing of the remainder of the Subject Property after the demolition; the use of interstate highways for the transportation of persons to demolish the Church Building and Rectory as well as to remove debris from the demolition; the use of interstate communication related to an effort at the demolition; the use of interstate communication related to the marketing and sale of the remainder of the Subject Property after demolition; and other activities related to the demolition and sale.

184. The Defendants' actions described above all took place under color of state law.

185. For the above reasons, the historic landmark designation of the Subject Property should be enjoined in order to remove the burden such designation places upon the Plaintiff's religious exercise.

COUNT I

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

186. Paragraphs 1 through 185 are incorporated by reference as if set forth fully herein.

187. Defendants have deprived and continue to deprive the Plaintiff of its 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, by imposing and implementing land use regulations in a manner that, on their face and as applied to the Plaintiff, burden Plaintiff's religious exercise without using the least restrictive means of achieving a compelling governmental interest; by intruding into matters of Plaintiff's religious doctrine and religious decision making and interfering with its religious autonomy; and by discriminating against Plaintiff on the basis of religion.

188. Defendants' actions as aforesaid have caused and continue to cause significant harm to Plaintiff, including but not limited to deprivation of its First Amendment rights, interference with its religious exercise and autonomy, and monetary damages.

189. Defendants are liable for the harm caused to Plaintiff. Plaintiff is entitled to declaratory relief, injunctive relief, compensatory damages, costs, and attorney's fees as provided under 42 U.S.C. § 1988.

COUNT II

**United States Constitution, First Amendment
42 U.S.C. § 1983
Establishment Clause
*against all Defendants***

190. Plaintiff incorporates paragraphs 1 through 189 above as if fully set forth herein.

191. The IHPC, through its adoption of the resolution recommending the Preservation Plan, the MDC through its adoption of the Preservation Plan in enacting 2024-HP-001, and the IHPC through its denial of the certificate of appropriateness, on their face and as applied to the Plaintiff, violated the Establishment Clause of the United States Constitution.

192. These actions, as evidenced by the statements of government officials, intruded on the religious decision making of the Plaintiff, interfered with Plaintiff's religious autonomy, entangled the government in religious issues, and substituted the religious judgments of government actors for those of religious officials, in violation of the Establishment Clause.

193. Defendants are liable for the harm caused to Plaintiff. Plaintiff is entitled to declaratory relief, injunctive relief, compensatory damages, costs, and attorney's fees as provided under 42 U.S.C. § 1988.

COUNT III

**Religious Land Use and Institutionalized Persons Act of 2000
"Substantial Burdens"
42 U.S.C. § 2000cc(a)
*against all Defendants***

194. Plaintiff incorporates paragraphs 1 through 193 above as if fully set forth herein.

195. Defendants have deprived and continue to deprive the Plaintiff of its right to the free exercise of religion, as secured by RLUIPA, by imposing and implementing land use

regulations in a manner that, on their face and as applied to the Plaintiff, places a substantial burden on the Plaintiff's religious exercise.

196. Defendants have failed to demonstrate that these regulations employ the least restrictive means of achieving a compelling governmental interest.

197. Defendants' actions have caused and continue to cause significant harm to Plaintiff, including but not limited to interference with its religious exercise, constitutional violations, and monetary damages.

198. Defendants are liable for the harm caused to Plaintiff. Plaintiff is entitled to declaratory relief, injunctive relief, compensatory damages, costs, and attorney's fees as provided under 42 U.S.C. § 2000cc-2.

COUNT IV

Religious Land Use and Institutionalized Persons Act of 2000

"Nondiscrimination"

42 U.S.C. § 2000cc(b)(2)

against all Defendants

199. Paragraphs 1 through 198 are incorporated by reference as if set forth fully herein.

200. Defendants have deprived and continue to deprive the Plaintiff of its right to the free exercise of religion, as secured by RLUIPA, by imposing and implementing land use regulations in a manner that, on their face and as applied to the Plaintiff, discriminates against it on the basis of religion and religious denomination, both on their face and as applied to Plaintiff.

201. Defendants' actions as aforesaid, have caused significant damage to Plaintiff.

202. Defendants are liable for the harm caused to Plaintiff. Plaintiff is entitled to declaratory relief, injunctive relief, compensatory damages, costs, and attorney's fees as provided under 42 U.S.C. § 1988 and 42 U.S.C. § 2000cc-2.

COUNT V

**Indiana Religious Freedom Restoration Act
Ind. Code § 34-13-9, *et seq.*
*against all Defendants***

203. Plaintiff incorporates paragraphs 1 through 202 above as if fully set forth herein.

204. By enacting 2024-HP-001 and denying the certificate of appropriateness, Defendants have imposed and implemented land use regulations in a manner that, on their face and as applied to the Plaintiff, substantially burdened and continue to substantially burden Plaintiff's exercise of religion, in violation of Indiana Code §§ 34-13-9-1, *et seq.*

205. Defendants have failed to demonstrate that these regulations are essential to further a compelling governmental interest and represent the least restrictive means of furthering that interest.

COUNT VI

**Indiana Constitution
Art. I §§ 2, 3, and 4
*against all Defendants***

206. Plaintiff incorporates paragraphs 1 through 205 above as if fully set forth herein.

207. The IHPC, through its adoption of the resolution recommending the Preservation Plan, the MDC through its adoption of the Preservation Plan in enacting 2024-HP-001, and the IHPC through its denial of the certificate of appropriateness, have imposed and implemented land use regulations in a manner that, on their face and as applied to the Plaintiff, violated Sections 2, 3, and 4 of the Indiana Constitution.

208. These actions materially burdened, and continue to materially burden, the right of Plaintiff and its parishioners to worship according to the dictates of their consciences, the right freely to exercise religious opinions and rights of conscience, and their right to be free from governmental preference for particular religions and religious ideas.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff, ST. PHILIP NERI CATHOLIC CHURCH, INC., respectfully requests that this Court grant the following relief:

- A. A declaration that MDC's adoption of 2024-HP-001 is unconstitutional and illegal in violation of the Free Exercise Clause of the First Amendment, the Establishment Clause of the First Amendment, RLUIPA's Substantial Burden provision, RLUIPA's Nondiscrimination provision, the Indiana Religious Freedom Restoration Act, and the Indiana Constitution Article I, sections 2, 3, and 4;
- B. A declaration that Historic Area Preservation Plan – 44, as adopted, is unconstitutional and illegal in violation of the Free Exercise Clause of the First Amendment, the Establishment Clause of the First Amendment, RLUIPA's Substantial Burden provision, RLUIPA's Nondiscrimination provision, the Indiana Religious Freedom Restoration Act, and the Indiana Constitution Article I, sections 2, 3, and 4;
- C. A declaration that the IHPC's denial of Petition #2025-COA-351 (HC) is unconstitutional and illegal in violation of the Free Exercise Clause of the First Amendment, the Establishment Clause of the First Amendment, RLUIPA's Substantial Burden provision, RLUIPA's Nondiscrimination provision, the Indiana

Religious Freedom Restoration Act, and the Indiana Constitution Article 1, sections 2, 3, and 4;

- D. An order reversing the MDC's adoption of 2024-HP-001;
- E. An order directing the IHPC to grant Petition #2025-COA-351 (HC);
- F. Preliminary and permanent orders enjoining Defendants, their officers, employees, agents, successors, and all others acting in concert with them from applying the land use regulations described above in a manner that violates the Free Exercise Clause of the First Amendment to the United States Constitution, the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, RLUIPA, 42 U.S.C. § 1982, and state law, or undertaking any and all action in furtherance of such acts;
- G. An award of compensatory damages against Defendants in favor of Plaintiff as the Court deems just for the loss of its rights under the First and Fourteenth Amendments to the United States Constitution, RLUIPA and the Indiana Religious Freedom Restoration Act caused by Defendants' laws and by Defendants' actions in relation to the adoption of 2024-HP-001 and the denial of Petition #2025-COA-351 (HC);
- H. An award to Plaintiff pursuant to 42 U.S.C. § 1983, RLUIPA and the Indiana Religious Freedom Restoration Act of full costs and attorneys' fees arising out of Defendants' actions, land use decisions and out of this litigation; and
- I. Such other and further relief as this Court may deem just and appropriate.

Respectfully submitted,

/s/Michael A. Swift
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pro hac vice pending)
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

St. Philip Neri Catholic Church, Indianapolis, Inc.

(b) County of Residence of First Listed Plaintiff Marion
(EXCEPT IN U.S. PLAINTIFF CASES)(c) Attorneys (Firm Name, Address, and Telephone Number)
Michael A. Swift,
Maginot, Moore & Beck LLP
150 W. Market Street, Suite 800
Indianapolis, IN 46204

Tel: 317-644-8323

DEFENDANTS

Indianapolis Historic Preservation Commission and
The Metropolitan Development CommissionCounty of Residence of First Listed Defendant Marion
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES |
|--|--|--|--|---|
| <input type="checkbox"/> 110 Insurance | PERSONAL INJURY | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 | <input type="checkbox"/> 422 Appeal 28 USC 158 | <input type="checkbox"/> 375 False Claims Act |
| <input type="checkbox"/> 120 Marine | <input type="checkbox"/> 310 Airplane | <input type="checkbox"/> 690 Other | <input type="checkbox"/> 423 Withdrawal 28 USC 157 | <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) |
| <input type="checkbox"/> 130 Miller Act | <input type="checkbox"/> 315 Airplane Product Liability | | PROPERTY RIGHTS | <input type="checkbox"/> 400 State Reapportionment |
| <input type="checkbox"/> 140 Negotiable Instrument | <input type="checkbox"/> 320 Assault, Libel & Slander | | <input type="checkbox"/> 820 Copyrights | <input type="checkbox"/> 410 Antitrust |
| <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment | <input type="checkbox"/> 330 Federal Employers' Liability | | <input type="checkbox"/> 830 Patent | <input type="checkbox"/> 430 Banks and Banking |
| <input type="checkbox"/> 151 Medicare Act | <input type="checkbox"/> 340 Marine | | <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application | <input type="checkbox"/> 450 Commerce |
| <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) | <input type="checkbox"/> 345 Marine Product Liability | | <input type="checkbox"/> 840 Trademark | <input type="checkbox"/> 460 Deportation |
| <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits | <input type="checkbox"/> 350 Motor Vehicle | LABOR | <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 | <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations |
| <input type="checkbox"/> 160 Stockholders' Suits | <input type="checkbox"/> 355 Motor Vehicle Product Liability | <input type="checkbox"/> 710 Fair Labor Standards Act | SOCIAL SECURITY | <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) |
| <input type="checkbox"/> 190 Other Contract | <input type="checkbox"/> 360 Other Personal Injury | <input type="checkbox"/> 720 Labor/Management Relations | <input type="checkbox"/> 861 HIA (1395ff) | <input type="checkbox"/> 485 Telephone Consumer Protection Act |
| <input type="checkbox"/> 195 Contract Product Liability | <input type="checkbox"/> 362 Personal Injury - Medical Malpractice | <input type="checkbox"/> 740 Railway Labor Act | <input type="checkbox"/> 862 Black Lung (923) | <input type="checkbox"/> 490 Cable/Sat TV |
| <input type="checkbox"/> 196 Franchise | | <input type="checkbox"/> 751 Family and Medical Leave Act | <input type="checkbox"/> 863 DIWC/DIWW (405(g)) | <input type="checkbox"/> 850 Securities/Commodities/Exchange |
| | | <input type="checkbox"/> 790 Other Labor Litigation | <input type="checkbox"/> 864 SSID Title XVI | <input type="checkbox"/> 890 Other Statutory Actions |
| REAL PROPERTY | CIVIL RIGHTS | <input type="checkbox"/> 791 Employee Retirement Income Security Act | <input type="checkbox"/> 865 RSI (405(g)) | <input type="checkbox"/> 891 Agricultural Acts |
| <input type="checkbox"/> 210 Land Condemnation | <input checked="" type="checkbox"/> 440 Other Civil Rights | IMMIGRATION | FEDERAL TAX SUITS | <input type="checkbox"/> 893 Environmental Matters |
| <input type="checkbox"/> 220 Foreclosure | <input type="checkbox"/> 441 Voting | <input type="checkbox"/> 462 Naturalization Application | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) | <input type="checkbox"/> 895 Freedom of Information Act |
| <input type="checkbox"/> 230 Rent Lease & Ejectment | <input type="checkbox"/> 442 Employment | <input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 896 Arbitration |
| <input type="checkbox"/> 240 Torts to Land | <input type="checkbox"/> 443 Housing/Accommodations | | | <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision |
| <input type="checkbox"/> 245 Tort Product Liability | <input type="checkbox"/> 445 Amer. w/Disabilities - Employment | | | <input type="checkbox"/> 950 Constitutionality of State Statutes |
| <input type="checkbox"/> 290 All Other Real Property | <input type="checkbox"/> 446 Amer. w/Disabilities - Other | | | |
| | <input type="checkbox"/> 448 Education | | | |
| | | PRISONER PETITIONS | | |
| | | Habeas Corpus: | | |
| | | <input type="checkbox"/> 463 Alien Detainee | | |
| | | <input type="checkbox"/> 510 Motions to Vacate Sentence | | |
| | | <input type="checkbox"/> 530 General | | |
| | | <input type="checkbox"/> 535 Death Penalty | | |
| | | Other: | | |
| | | <input type="checkbox"/> 540 Mandamus & Other | | |
| | | <input type="checkbox"/> 550 Civil Rights | | |
| | | <input type="checkbox"/> 555 Prison Condition | | |
| | | <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | | |

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. § 2000cc et seq. and 42 U.S.C. § 1983

Brief description of cause:

Unconstitutional discrimination against religious organization in violation of First Amendment and RLUIPA

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

December 30, 2025

/s/Michael A. Swift

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

United States District Court

for the Southern District of Indiana
Indianapolis Division

| | | |
|------------------------------------|---|-----------|
| ST. PHILIP NERI CATHOLIC CHURCH, |) | |
| INDIANAPOLIS, INC. |) | |
| <i>Plaintiff,</i> |) | |
| |) | |
| vs. |) | Cause No: |
| |) | |
| INDIANAPOLIS HISTORIC PRESERVATION |) | |
| COMMISSION, and THE METROPOLITAN |) | |
| DEVELOPMENT COMMISSION |) | |
| |) | |
| <i>Defendants.</i> |) | |

SUMMONS IN A CIVIL ACTION

TO:

Indianapolis Historic Preservation Commission
200 E. Washington Street
Suite 1842
Indianapolis, IN 46204

The Metropolitan Development Commission
200 E. Washington Street
Suite 2042
Indianapolis, IN 46204

A lawsuit has been filed against you. Within 21 days after service of this summons on you (not counting the day you received it) or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) C you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Michael A. Swift
Maginot, Moore & Beck LLP
150 W. Market St., Suite 800
Indianapolis, IN 46204

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Summons (Page 2)

Civil Action Number: _____

PROOF OF SERVICE

(this section should not be filed with the court unless required by Fed. R. Civ. P. 4(l))

This summons for *(name of individual and title, if any)* _____

was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's Signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.