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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
NORTHERN DIVISION**

MAIN STREET CHURCH OF BRIGHAM CITY,	COMPLAINT
Plaintiff,	Case No. 1:12-cv-186 DBP
v.	
BRIGHAM CITY, UTAH, a Municipal Corporation; KIRK MORGAN, Brigham City Attorney; PAUL A. TITTENSOR, Brigham City Chief of Police; and BRUCE LEONARD, Brigham City Administrator,	
Defendants.	

PLAINTIFF, MAIN STREET CHURCH OF BRIGHAM CITY by and through
counsel, JOHN MEJIA and LEAH FARRELL of the AMERICAN CIVIL LIBERTIES UNION
of UTAH FOUNDATION, INC., as a Complaint and as causes of action against the
Defendants state and allege as follows:

PRELIMINARY STATEMENT

1. This 42 U.S.C. § 1983 action seeks declaratory, equitable and injunctive relief for improper interference with the constitutional rights of Plaintiff. Plaintiff seeks nominal monetary damages from the Defendants. Plaintiff seeks attorney fees and costs under 42 U.S.C. § 1983 and 42 U.S.C. § 1988.

JURISDICTION & VENUE

2. Jurisdiction is proper in this Court under 42 U.S.C. § 1983 and § 1988 as well as 28 U.S.C. §§ 1331 and 1343, and arises to enforce provisions of the United States Constitution.

3. Declaratory relief is authorized by 28 U.S.C. § 2201 and § 2202 and Rule 57 of the Federal Rules of Civil Procedure.

4. Injunctive relief is authorized by Rule 65 of the Federal Rules of Civil Procedure.

5. This Court has supplemental jurisdiction to hear Plaintiff's state constitutional claims arising from the same factual situation pursuant to 28 U.S.C. § 1367.

6. Venue is proper with this Court pursuant to 28 U.S.C. § 1391(b) as the claims herein arose in the Northern District of Utah, the Defendants conduct business in the Northern District of Utah and Defendants are subject to personal jurisdiction within this district.

PARTIES

7. MAIN STREET CHURCH OF BRIGHAM CITY is a church located at 48 North Main Street in Brigham City, Utah ("Main Street Church"). Jim Catlin is the pastor of the Main Street Church.
8. BRIGHAM CITY, UTAH is a municipal corporation in the State of Utah, which can sue and be sued in its own name ("Brigham City").
9. KIRK MORGAN is the City Attorney of Brigham City.
10. PAUL A. TITTENSOR is the Chief of Police of Brigham City.
11. BRUCE LEONARD is the City Administrator of Brigham City.
12. The individual Defendants are sued both personally as well as in their official capacity for declaratory, equitable and injunctive relief. The Defendants are sued personally for nominal monetary damages of \$1 each for each violation.
13. At all times pertinent to this action, Defendants were acting under color of state law, with powers vested in them by the State of Utah and within the scope of their authority granted by Utah State law, policies and practices.

FACTS

14. Main Street Church is a church whose religious activities include distributing religious-themed literature to the public. Some of this literature includes information concerning what Main Street Church views as the differences between the beliefs of its members and the beliefs of the Church of Jesus Christ of

Latter Day Saints. If the recipient of the literature has questions for the Main Street Church representative, the representative will engage the recipient in discussions.

15. One event at which Main Street Church intends to, and has been, distributing literature is an open house for the LDS Temple in Brigham City (the “Open House”). The Open House started on about August 18, 2012 and ends on September 15, 2012.

16. As part of its distribution efforts during the Open House, Main Street Church wishes to distribute information on the public sidewalks adjacent to all four public streets surrounding the LDS Temple. The four streets surrounding the LDS Temple are 200 South, Main Street, 300 South, and 100 West. As described below, however, Defendants have purported to completely ban Main Street Church from access to the public sidewalks on two sides of the LDS Temple.

17. On information and belief, it is expected that over the period of the Open House, about 400,000 people will visit the LDS Temple.

18. Almost all of the people visiting the Open House arrive by shuttle bus, because the area around the LDS Temple does not have parking capacity for such a large number of vehicles. The shuttle buses unload passengers on the block of 100 West between 200 South and 300 South (the “West Side”). There are six buses.

19. Brigham City has estimated that about 1,800 people load and unload per hour from the buses on the West Side.

20. Brigham City has asserted that there is ongoing construction in the area of Main Street from 200 South to 300 South (“the East Side”) and that there have been

traffic accidents in that area due to construction and crowd issues on that side. That construction appears to have been completed as of the date of this Complaint.

21. On August 18, 2012, Pastor Catlin and about four other people representing the Main Street Church went to the Brigham City Police Department to inform the police of Main Street Church's plan to distribute literature on the sidewalks around the LDS Temple during the Open House.

22. The Main Street Church group initially spoke with police officers, who then summoned Sergeant Fertig of the Brigham City Police Department.

23. After speaking to the group, Sergeant Fertig indicated that he was going to speak to Chief Tittensor and Mr. Morgan for guidance.

24. After consulting with those two Defendants, Sergeant Fertig indicated that Main Street Church would need a permit to distribute literature in any area of Brigham City, including the sidewalks around the LDS Temple. Sergeant Fertig told the group to apply the coming Monday, August 20, 2012, and that the approval process would not take more than a few minutes.

25. On August 20, 2012, on behalf of Main Street Church, Pastor Catlin applied for a "free speech permit" from Brigham City. On that application, Mr. Catlin sought permission for Main Street Church to hand out literature on all four sides of the LDS Temple from August 20, 2012 to September 14, 2012. Pastor Catlin further described the literature as presenting "Biblically-based information about temples and related Christian topics." The August 20 application is attached hereto as Exhibit A.

26. On August 21, 2012, Brigham City granted a "Free Speech Zone Permit" that purported to completely bar Main Street Church from the East and West Side of the LDS Temple. The permit states that it is valid from "8/21/2012 to 9/15/2012." The permit lists the "Allowed Activity" as "Hand distribution of literature to voluntary recipients." The permit is signed by Mr. Morgan. The August 21 permit is attached hereto as Exhibit B.

27. There are eight "Specific Provisions," in the August 21 permit, as follows: "1. Approved for Zones 1, 2 & 3; 2. Restricted to use of sidewalk(s); 3. Sidewalks(s) must remain open to pedestrians at all time; 4. Permit is nontransferable and must be on site during "Protest"; 5. Maximum number of participants is four (4) per day; 6. Permit holder shall not trespass on private property; 7. Any violation of the Specific Provisions shall automatically void this permit; 8. Protestors shall not communicate with sound amplification devices."

28. Attached to the permit is an aerial map of the area around the LDS Temple. "Zone 1" is described as "A portion of the sidewalk located on the north side of 200 South between Main Street & 100 West." "Zone 2" is described as "A portion of the sidewalk located on the south side of 200 South between Main Street & 100 West." "Zone 3" is described as "A portion of the sidewalk located on the north side of 300 South between Main Street & 100 West." A copy of this map attached to the August 21 permit is attached hereto as Exhibit C.

29. On information and belief, Brigham City relied on Brigham City Code Chapter 16.04, "Free Speech Zones" as authority to purport to require free speech permits.

That chapter of the Brigham City Code reads in its entirety as follows:

16.04.010. Definitions as Used in this Section:

A. "Protest" means any demonstration, picketing, speechmaking, marching, vigil and all other like forms of conduct which involve the communication or expression of views or grievances.

B. "Free Speech Zone" means the area in which protesting is allowed.

C. "Unlawful Protest" means a protest held outside the boundaries of a designated free speech zone or use of sound amplification devices at any event that the Free Speech Committee has restricted or prohibited the use of such mechanical or sound amplification devices.

1. except that spontaneous protests of five or less individuals shall not be subject to these requirements.

16.04.020. Application Required.

An application is required for each protest event and shall be filed in the Office of Community & Economic Development. The purpose of the application is to provide the city with adequate information about the event, the anticipated assembly of individuals, and considerations for public safety.

16.04.030. Establishment.

A Free Speech Committee comprising of the City Administrator, City Attorney and Chief of Police or their designees will review all applications. The Committee may establish a content neutral free speech zone for any event which the Committee determines the establishment of a free speech zone would serve a substantial government interest such as traffic flow, crowd control, or public safety on public property. All free speech zones established by the Free Speech Committee shall be content neutral and appropriately marked as a free speech zone. All free speech zones shall provide ample opportunity for protestors to communicate their messages, and be of ample size to accommodate the number of persons reasonably anticipated to exercise their free speech rights during the event.

16.04.040. Designation of Area and Duration.

For each event in which the Free Speech Committee establishes a free speech zone, Brigham City shall make available to the public at least 24 hours before the event a map and description of the location of the event, boundaries of the event, location of the free speech zone, boundaries of the free speech zone, the hours of the regulations on free speech, and any other restrictions. The free speech zone, duration of the protest regulations, and other restrictions shall be narrowly tailored to meet the legitimate government interest of crowd control, traffic control, or public safety.

16.04.050. Restrictions.

In any area designated as a free speech zone area, protestors may not engage in activities that obstruct or impede pedestrians or vehicles, or harass bystanders with physical contact. Protestors may not tie, nail or otherwise physically attach any banners, signs, pictures, instructional materials, symbols or other personal property to any city property or private property.

16.04.060. Sound Amplification Devices.

The Free Speech Committee may restrict or prohibit the use of mechanical loudspeakers or sound amplification devices in the free speech zone, including, but not limited to, megaphones, bullhorns and electric amplifiers, if the Free Speech Committee determines that the use of sound amplification devices will substantially interfere with the event or will substantially interfere with crowd control, traffic control or public safety and that the protestors have a reasonable opportunity to communicate their message without sound amplification.

16.04.070. Penalties.

Unlawful protest is an infraction, which offense is punishable by a fine in an amount not exceeding \$750.00. If the offense continues after a request by the police to desist, or if a person refuses to comply with the lawful order of the police to protest in the free speech zone, or if a person refuses to comply with the lawful order of the police regarding the use of any mechanical loudspeaker or sound amplification device at an event that the Free Speech Committee has restricted or prohibited such mechanical or sound amplification devices, that person is guilty of unlawful protest, a Class C Misdemeanor, which offense is punishable by imprisonment for a term not to exceed 90 days and a fine not exceeding \$750.00 or by both the fine and the term of imprisonment.

A copy of Title 16 of the Brigham City Code is attached hereto as Exhibit D. (Section 16.04 is referred to herein as the "Free Speech Zone Ordinance.")

30. Soon after receiving the permit, representatives of Main Street Church began to distribute literature at the Open House. The representatives soon realized that there was relatively little pedestrian foot traffic in the areas designated as Zones 1, 2 and 3. Their goal, however, was to hand their literature to as many people visiting the Open House as possible.

31. On August 23, 2012, Pastor Catlin applied again on Main Street Church's behalf for a free speech permit for Main Street Church. This application requested access from August 24 to October 1, 2012 to "All public city sidewalks" for literature distribution. This permit application specifically requested access to the East and West Sides of the LDS Temple. The application stated that no more than two people would hand out literature on each of the four sidewalks surrounding the LDS Temple. A copy of the August 23 permit application is attached hereto as Exhibit E.

32. Brigham City denied this permit application, asserting various reasons, including safety concerns and pedestrian traffic flow issues, in an undated letter. That undated letter is attached hereto as Exhibit F.

33. There have been between two and five representatives of Main Street Church present at the Open House in "Zones 1, 2, and 3" on each day from August 21, 2012 to September 10, 2012.

34. These Main Street Church representatives have been careful to limit their presence to the "Zones 1, 2, and 3." While police have been called to complain about Main Street Church representatives at the Open House, each time, the responding

officers determined that there was no disturbance and the complaints had been filed to object to the presence of Main Street Church representatives.

35. During a visit to the Open House, Pastor Catlin observed an individual handing out literature on the private grounds of the LDS Temple adjacent to the West Side sidewalk. Pastor Catlin observed that this activity did not impede the traffic flow or threaten safety on the West Side.

36. On September 5, 2012, Pastor Catlin met personally with Dennis J. Fife, the Mayor of Brigham City. Pastor Catlin requested of Mayor Fife that Brigham City not enforce the Chapter 16.04 of the Brigham City Code against Main Street Church and its representatives during the Open House. Pastor Catlin asserted that Brigham City's ordinance violates the Constitution.

37. Mayor Fife told Pastor Catlin he would take appropriate actions and have an answer to Pastor Catlin's request by September 10, 2012.

38. On September 10, 2012, Mayor Fife informed Pastor Catlin that Main Street Church's request would need to be made in writing.

39. Pastor Catlin complied, and delivered his written request to City Administrator Leonard later that day.

40. As of late evening yesterday, September 10, 2012, no one from Brigham City has responded to Pastor Catlin.

41. Main Street Church intends to send representatives to the Open House on each remaining day of the Open House to distribute literature on the sidewalks.

42. Main Street Church would like to access the sidewalk on the East and West Sides of the LDS Temples on each of these days. If Main Street Church were to access those sidewalks, its representatives would not impede the flow of pedestrian traffic, nor would they attempt to force anyone to take any of their literature.

43. The only reason that Main Street Church is not accessing the sidewalks on East and West Sides is that it fears civil and criminal penalties under the Free Speech Zone Ordinance if it violates the free speech permit.

44. As indicated in the August 23 permit application, Main Street Church would like to hand out leaflets around the LDS Temple until October 1, 2012, a few weeks after its existing permit expires. It fears that doing so without again seeking a permit under the Free Speech Ordinance could subject it to civil and criminal penalties.

Main Street Church's Rights

45. Main Street Church desires to exercise its constitutional rights to free expression, to peacefully assemble, and to free exercise of religion as set forth above.

46. Main Street Church desires to exercise its constitutional rights to free expression, free exercise of religion, and to peacefully assemble in a meaningful way, at meaningful times and places and to a meaningful audience.

47. Main Street Church is entitled to exercise the above described constitutional rights at a place and during a time when meaningful communication with members of the public can occur.

48. Main Street Church is entitled to exercise the above described constitutional rights in a meaningful way at meaningful times and places to a meaningful audience.

FIRST CAUSE OF ACTION

On Its Face, Defendants' Free Speech Zone Ordinance Violates Plaintiff's Right to Free Expression Guaranteed by the United States Constitution

49. Main Street Church incorporates by reference all preceding allegations of this Complaint.

50. The Free Speech Zone Ordinance includes a broad definition of "protest" that essentially covers any and all expression. It requires anyone engaged in "protest" in Brigham City to seek a permit (with an exception for "spontaneous" gatherings of less than five people). It provides civil and criminal penalties for people engaged in "unlawful protests."

51. The Free Speech Ordinance is impermissibly broad on its face. It chills the speech of individuals and groups like Main Street Church who would like to express themselves in public in Brigham City, but are discouraged by the permit requirement and fear of possibly incurring civil and criminal penalties.

52. The Free Speech Zone Ordinance is also impermissibly broad because it does not give individuals and groups like the Main Street Church fair notice of what public forms of expression or conduct could subject them to civil or criminal liability.

53. The Free Speech Zone Ordinance also grants impermissibly broad discretion to Brigham City officials to put conditions on the exercise of free expression.

54. For these and various other reasons, the Free Speech Zone Ordinance represents a facial infringement of Main Street Church's expressive rights as protected by the First Amendment to the United States Constitution.

55. An actual controversy exists between the parties regarding the facial unconstitutionality of Defendants' Free Speech Zone Ordinance. Main Street Church is entitled to declaratory relief that Defendants' Free Speech Zone Ordinance violates the United States Constitution in that it impermissibly burdens the free speech activities of individuals and groups, such as Main Street Church, seeking to engage in free speech and assembly activities.

56. Main Street Church is entitled to equitable relief in the nature of a temporary restraining order, preliminary injunction and a permanent injunction against the Defendants prohibiting them from restricting Main Street Church's expressive rights under the United States Constitution as set forth herein.

SECOND CAUSE OF ACTION

On Its Face, Defendants' Free Speech Ordinance Violates Plaintiff's Right to Free Expression Guaranteed by the Utah Constitution

57. Main Street Church incorporates by reference all preceding paragraphs of this Complaint.

58. For the reasons set forth above, on its face, the Defendants' Free Speech Zone Ordinance constitutes an infringement of Main Street Church's expressive rights as protected by the Utah Constitution, Art. 1, § 15.

59. An actual controversy exists between the parties regarding the facial unconstitutionality of Defendants' permit requirements. Main Street Church is entitled to declaratory relief that Defendants' Free Speech Zone Ordinance violates the Utah Constitution.

60. Main Street Church is entitled to equitable relief in the nature of a temporary restraining order, preliminary injunction and a permanent injunction against Defendants prohibiting them from restricting Main Street Church's expressive rights under the Utah Constitution as set forth herein.

THIRD CAUSE OF ACTION

On its Face, Defendants' Free Speech Zone Ordinance Violates Main Street Church's Right to Assemble Guaranteed by the United States Constitution

61. Main Street Church incorporate by reference all preceding paragraphs of this Complaint.

62. Defendants' Free Speech Zone Ordinance subjects any non-spontaneous assembly of people in any number, and any spontaneous assembly of over five people, to possible civil and criminal penalties if they engage in "unlawful protest." On its face, the Free Speech Zone Ordinance defines "protest" to mean essentially any expression and defines "unlawful protest" as engaging in "protest" without a permit. Individuals and groups such as the Main Street Church are thus discouraged from exercising their right to free assembly because of the Free Speech Zone Ordinance's permitting requirements and imposition of civil and criminal penalties.

63. The Free Speech Zone Ordinance on its face violates the right to peacefully assemble as protected by the First Amendment to the United States Constitution.

64. An actual controversy exists between the parties regarding the facial unconstitutionality of Defendants' permit requirements. Main Street Church is entitled to declaratory relief that Defendants' Free Speech Zone Ordinance violates the United States Constitution in that it impermissibly burdens the assembly activities of individuals and groups, such as Main Street Church, seeking to engage in free speech and assembly activities.

65. Main Street Church is entitled to equitable relief in the nature of a temporary restraining order, preliminary injunction and a permanent injunction against Defendants prohibiting them from restricting Main Street Church's right to peacefully assemble guaranteed by the United States Constitution.

FOURTH CAUSE OF ACTION

On Its Face, Defendants' Free Speech Ordinance Violates Main Street Church's Right to Assemble Protected by the Utah Constitution

66. Main Street Church incorporate by reference all of the preceding paragraphs of this Complaint.

67. Defendants cannot burden Main Street Church's exercise of the right to assemble with the Free Speech Zone Ordinance as described above.

68. On its face, the Free Speech Ordinance violates Main Street Church's right to peacefully assemble as protected by the Utah Constitution. Art. 1, § 1.

69. An actual controversy exists between the parties regarding the facial unconstitutionality of Defendants' permit requirements. Main Street Church is entitled to declaratory relief that Defendants' Free Speech Zone Ordinance violates

the United States Constitution in that it impermissibly burdens the free speech activities of individuals and groups, such as Main Street Church, seeking to engage in free speech and assembly activities.

70. Main Street Church is entitled to equitable relief in the nature of a temporary restraining order, preliminary injunction and a permanent injunction against the defendants prohibiting them from restricting Main Street Church's right to peacefully assemble under the Utah Constitution as set forth herein.

FIFTH CAUSE OF ACTION

On Its Face, Defendants' Free Speech Zone Ordinance Violates Main Street Church's Right to Free Exercise of Religion as Guaranteed by the First Amendment of the United States Constitution

71. Main Street Church incorporates by reference all preceding allegations of this Complaint.

72. The Free Speech Zone Ordinance includes a broad definition of "protest" that essentially covers any and all expression. It is broad enough to include all religious activities, including passing out religious literature and talking about one's religion. It requires anyone engaged in "protest" in Brigham City to seek a permit. It provides civil and criminal penalties for people engaged in "unlawful protests."

73. The Free Speech Ordinance is impermissibly broad on its face. It discourages individuals and groups like Main Street Church who would like to practice their religion in public in Brigham City from doing so by imposing a permit requirement as well civil and criminal penalties for violations.

74. The Free Speech Ordinance is also impermissibly broad because it does not give individuals and groups like the Main Street Church fair notice of what public forms of religious activity or conduct could subject them to civil or criminal liability.

75. The Free Speech Ordinance also grants impermissibly broad discretion to Brigham City officials to put conditions on the free exercise of religion.

76. For these and various other reasons, the Free Speech Zone Ordinance on its face infringes Main Street Church's right to free exercise of religion as protected by the First Amendment to the United States Constitution.

77. An actual controversy exists between the parties regarding the facial unconstitutionality of Defendants' Free Speech Zone. Main Street Church is entitled to declaratory relief that Defendants' Free Speech Zone Ordinance violates the United States Constitution in that it impermissibly burdens the activities of individuals and groups, such as Main Street Church, seeking to engage in the free exercise of religion.

78. Main Street Church is entitled to equitable relief in the nature of a temporary restraining order, preliminary injunction and a permanent injunction against the Defendants prohibiting them from restricting Main Street Church's religious rights under the United States Constitution as set forth herein.

SIXTH CAUSE OF ACTION

On Its Face, Defendants' Free Speech Ordinance Violates Main Street Church's Rights to Free Exercise of Religion Guaranteed by the Utah Constitution

79. Main Street Church incorporates by reference all preceding paragraphs of this Complaint.

80. Defendants cannot require a free speech permit and impose civil and criminal penalties for “unlawful protest” as described above, as it restricts Main Street Church’s free exercise of religion.

81. The Free Speech Zone Ordinance on its face constitutes an infringement of Main Street Church’s religious rights as protected by the Utah Constitution, Art. 1, § 4.

82. An actual controversy exists between the parties regarding the facial unconstitutionality of Defendants’ permit requirements. Main Street Church is entitled to declaratory relief that Defendants’ Free Speech Zone Ordinance violates the Utah Constitution.

83. Main Street Church is entitled to equitable relief in the nature of a temporary restraining order, preliminary injunction and a permanent injunction against Defendants prohibiting them from restricting Main Street Church’s religious rights under the Utah Constitution as set forth herein.

SEVENTH CAUSE OF ACTION

As Applied, Defendants’ Free Speech Zone Ordinance Violates Plaintiff’s Right to Free Expression Guaranteed by the United States Constitution

84. Main Street Church incorporates by reference all preceding allegations of this Complaint.

85. For all of the reasons explained above, Defendants' Free Speech Zone Ordinance violates the right to free expression on its face. Defendants also violated Main Street Church's rights in applying the ordinance here, as described below.

86. Main Street Church has the right under the First Amendment to leaflet on sidewalks, which are public forums.

87. Brigham City has the authority to impose narrowly tailored time, manner, and place restrictions on Main Street Church's expressive activities to pursue significant government interests.

88. Here, the restrictions imposed on Main Street Church by the Defendants in the permit are not narrowly tailored and do not serve significant government interests. Brigham City has not shown that Main Street Church poses any risk to safety or will impede pedestrian traffic by handing out leaflets on the East and West Sides at the Open House. Moreover, even if there were such safety concerns, a complete ban on Main Street Church using the public sidewalks at all burdens far more speech than is necessary to address them.

89. When they drafted the August 21 permit for Main Street Church, the individually named Defendants knew or should have known that they could not completely ban Main Street Church from using certain sidewalks without violating its First Amendment rights.

90. For these and various other reasons, the conduct of Defendants as set forth above constitutes an infringement of Main Street Church's expressive rights as protected by the First Amendment to the United States Constitution.

91. An actual controversy exists between the parties regarding the unconstitutionality of Defendants' Free Speech Zone Ordinance as applied to Main Street Church. Main Street Church is entitled to declaratory relief that the Free Speech Zone Ordinance violated the United States Constitution as applied to Main Street Church in that the ordinance impermissibly burdens the free speech activities of Main Street Church, which is seeking to engage in free speech and assembly activities.

92. Main Street Church is entitled to equitable relief in the nature of a temporary restraining order, preliminary injunction and a permanent injunction against the Defendants prohibiting them from restricting Main Street Church's expressive rights under the United States Constitution as set forth herein.

93. The conduct of the Defendants described above violated Main Street Church's constitutionally protected rights and Main Street Church is entitled to nominal monetary damages against them of \$1.

EIGHTH CAUSE OF ACTION

As Applied, Defendants' Free Speech Ordinance Violates Plaintiff's Right to Free Expression Guaranteed by the Utah Constitution

94. Main Street Church incorporates by reference all preceding paragraphs of this Complaint.

95. The conduct of the defendants as set forth above constitutes an infringement of Main Street Church's expressive rights as the Utah Constitution, Art. 1, § 15.

96. An actual controversy exists between the parties regarding the unconstitutionality of Defendants' permit requirements as applied to Main Street Church. Main Street Church is entitled to declaratory relief that Defendants' Free Speech Zone Ordinance violates the Utah Constitution.

97. Main Street Church is entitled to equitable relief in the nature of a temporary restraining order, preliminary injunction and a permanent injunction against Defendants prohibiting them from restricting Main Street Church's expressive rights under the Utah Constitution as set forth herein.

98. The conduct of Defendants described above violated Main Street Church's constitutionally protected rights and Main Street Church is entitled to nominal monetary damages against them of \$1.

NINTH CAUSE OF ACTION

As Applied, Defendants' Free Speech Zone Ordinance Violates Main Street Church's Right to Assemble Guaranteed by the United States Constitution

99. Main Street Church incorporates by reference all preceding paragraphs of this Complaint.

100. The conduct of Defendants as set forth above constitutes an infringement of Main Street Church's right to peacefully assemble as protected by the First Amendment to the United States Constitution.

101. An actual controversy exists between the parties regarding the unconstitutionality of Defendants' permit requirements as applied to Main Street Church. Main Street Church is entitled to declaratory relief that Defendants' Free

Speech Zone Ordinance violates the United States Constitution in that it impermissibly burdens the free speech and assembly activities of the Main Street Church, which is seeking to engage in free speech and assembly activities.

102. Main Street Church is entitled to equitable relief in the nature of a temporary restraining order, preliminary injunction and a permanent injunction against Defendants prohibiting them from restricting Main Street Church's right to peacefully assemble guaranteed by the United States Constitution.

103. The conduct of the Defendants described above violated Main Street Church's constitutionally protected rights and Main Street Church is entitled to nominal monetary damages against them of \$1.

TENTH CAUSE OF ACTION

As Applied, Defendants' Free Speech Ordinance Violates Main Street Church's Right to Assemble Protected by the Utah Constitution

104. Main Street Church incorporates by reference all of the preceding paragraphs of this Complaint.

105. The conduct of Defendants as set forth above constitutes an infringement of Main Street Church's right to peacefully assemble as protected by the Utah Constitution, Art. 1, § 1.

106. An actual controversy exists between the parties regarding the unconstitutionality of Defendants' permit requirements as applied to Main Street Church. Main Street Church is entitled to declaratory relief that Defendants' Free Speech Zone Ordinance violates the United States Constitution in that it

impermissibly burdens the free speech activities of Main Street Church, which is seeking to engage in free speech and assembly activities.

107. Main Street Church is entitled to equitable relief in the nature of a temporary restraining order, preliminary injunction and a permanent injunction against the defendants prohibiting them from restricting Main Street Church's right to peacefully assemble under the Utah Constitution as set forth herein.

108. The conduct of the Defendants described above violated Main Street Church's constitutionally protected rights and Main Street Church is entitled to nominal monetary damages against them of \$1.

ELEVENTH CAUSE OF ACTION

As Applied, Defendants' Free Speech Zone Ordinance Violates Main Street Church's Right to Free Exercise of Religion as Guaranteed by the First Amendment of the United States Constitution

109. Main Street Church incorporates by reference all preceding allegations of this Complaint.

110. The conduct of Defendants as set forth above constitutes an infringement of Main Street Church's right to free exercise of religion as protected by the First Amendment to the United States Constitution.

111. An actual controversy exists between the parties regarding the unconstitutionality of Defendants' Free Speech Zone Ordinance as applied to Main Street Church. Main Street Church is entitled to declaratory relief that Defendants' Free Speech Zone Ordinance violates the United States Constitution in that it

impermissibly burdens the free speech activities of individuals and groups, such as Main Street Church, seeking to engage in the free exercise of religion.

112. Main Street Church is entitled to equitable relief in the nature of a temporary restraining order, preliminary injunction and a permanent injunction against the Defendants prohibiting them from restricting Main Street Church's religious rights under the United States Constitution as set forth herein.

113. The conduct of the Defendants described above violated Main Street Church's constitutionally protected rights and Main Street Church is entitled to nominal monetary damages against them of \$1.

TWELFTH CAUSE OF ACTION

As Applied, Defendants' Free Speech Ordinance Violates Main Street Church's Rights to Free Exercise of Religion Guaranteed by the Utah Constitution

114. Main Street Church incorporates by reference all preceding paragraphs of this Complaint.

115. The conduct of the defendants as set forth above constitutes an infringement of Main Street Church's religious rights as the Utah Constitution, Art. 1, § 4.

116. An actual controversy exists between the parties regarding the unconstitutionality of Defendants' permit requirements as applied to Main Street Church. Main Street Church is entitled to declaratory relief that Defendants' Free Speech Zone Ordinance violates the Utah Constitution.

117. Main Street Church is entitled to equitable relief in the nature of a temporary restraining order, preliminary injunction and a permanent injunction against

Defendants prohibiting them from restricting Main Street Church's religious rights under the Utah Constitution as set forth herein.

118. The conduct of the Defendants described above violated Main Street Church's constitutionally protected rights and Main Street Church is entitled to nominal monetary damages against them of \$1.

IMMEDIATE EQUITABLE RELIEF

119. Defendants' current, threatened, imminent, continuing and pending violations of Main Street Church's rights as described above are real and substantial.

120. The Open House is ending September 15, 2012, and Main Street Church is totally barred from the sidewalks on the East and West Sides, where the vast majority of individuals are entering the Open House. As part of its free expression, right to assemble, and religious activities, Main Street Church would like to reach as many people as possible with its literature.

121. Even after the Open House ends, Main Street Church's right to free speech on the East and West Sides of the LDS Temple is chilled by the Free Speech Zone Ordinance.

122. Pastor Catlin and other Main Street Church representatives are fearful that if they exercise their first amendment rights to free expression, peaceful assembly, and religion on the East and West Sides of the LDS Temple today or any day in the future, they will be fined and/or arrested and/or criminally charged. That fear is real and has a chilling effect on their rights.

123. Harm will be suffered by Main Street Church in not being allowed to engage in the expressive activity as described above.

124. The harms being suffered and that will be suffered by Main Street Church are immediate and irreparable in nature. That harm justifies and warrants the issuance of a temporary restraining order and a preliminary injunction against Defendants barring them from enforcing the Free Speech Zone Ordinance and allowing Main Street Church to engage in the expressive, assembly, and religious activity free from any permitting requirement as described above.

ATTORNEY FEES and COURT COSTS

125. Main Street Church have incurred attorney fees and court costs in pursuit of this matter.

126. Main Street Church will incur additional attorney fees and court costs in pursuit of this matter.

127. Main Street Church is entitled to and seeks reimbursement of their attorney fees and court costs pursuant to 42 U.S.C. § 1983 and § 1988.

RELIEF REQUESTED

WHEREFORE, Main Street Church demand the following relief:

1. For a temporary restraining order and a preliminary injunction barring Defendants from enforcing the Free Speech Zone Ordinance and allowing Main Street Church to engage in the expressive, assembly and religious activities as

described above on any public sidewalk in Brigham City, including the East and West Sides of the LDS Temple.

2. For a permanent injunction allowing Main Street Church to engage in the expressive, assembly, and religious activities as described above without having to comply with the Free Speech Zone Ordinance.
3. For declaratory relief that the Free Speech Zone Ordinance, on its face and as applied to Main Street Church, violates the constitutional rights of the Main Street Church as protected by the Utah and United States Constitutions.
4. For an award of nominal damages in the amount of \$1 from each Defendant for each violation they have caused Main Street Church to date.
5. For an award of attorney fees and court costs under 42 U.S.C. § 1983 and § 1988.
6. For such other and further relief as the court deems just and proper.

DATED this 11th day of September, 2012.

Respectfully submitted,

John Mejia
Leah Farrell
AMERICAN CIVIL LIBERTIES UNION OF
UTAH FOUNDATION, INC.
Attorneys for Plaintiff

by ____/s/_____
John Mejia