

John Mejia (Utah Bar No. 13965)
Leah Farrell (Bar No. 13696)
AMERICAN CIVIL LIBERTIES UNION
OF UTAH FOUNDATION, INC.
355 N. 300 W.
Salt Lake City, Utah 84103
Telephone: 801.521.9862
Facsimile: 801.532.2850
E-mail: aclu@acluutah.org

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

<p>MAIN STREET CHURCH OF BRIGHAM CITY,</p> <p>Plaintiff,</p> <p>v.</p> <p>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,</p> <p>Defendants.</p>	<p>MAIN STREET CHURCH’S MOTION FOR TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY INJUNCTION</p> <p>Case No. 1:12-cv-186 DBP</p>
---	---

PLAINTIFF, MAIN STREET CHURCH OF BRIGHAM CITY (“Main Street Church”) by and through counsel, JOHN MEJIA and LEAH FARRELL of the AMERICAN CIVIL LIBERTIES UNION of UTAH FOUNDATION, INC., hereby submits the following Motion for a Temporary Restraining Order and/or Preliminary Injunction.

SUMMARY OF ARGUMENT

Main Street Church has brought this 42 U.S.C. § 1983 action seeking equitable, injunctive and declaratory relief to redress and prevent violation of Plaintiffs' civil rights protected by the United States and Utah constitutions. In the motion at bar, Main Street Church seeks immediate emergency injunctive relief to prevent Defendants' enforcement Brigham City Code provisions that unconstitutionally restrict Plaintiffs' freedom of speech, right to peacefully assemble, and right to free religious activity.

IMMEDIATE EQUITABLE RELIEF IS NEEDED

Defendants are currently prohibiting Main Street Church from accessing public sidewalks to engage in its protected free speech activities, including distributing religious literature. It is imperative for the church to be able to access those sidewalks during the Open House for the LDS Temple in Brigham City, Utah, which ends on September 15, 2012. After that date, pedestrian traffic will dwindle and Main Street Church will have lost a significant opportunity to communicate its free speech and religious message. Even after the Open House, however, Main Street Church will still face a real and immediate threat to its First Amendment activities by Defendants.

NECESSARY ELEMENTS FOR TEMPORARY RESTRAINING ORDER

A party requesting a preliminary injunction or temporary restraining order where the other party has notice must establish that: (i) there is a substantial likelihood of success on the merits; (ii) the party will suffer irreparable injury unless

the injunction issues; (iii) the threatened injury outweighs whatever damage the proposed injunction may cause the opposing party; and (iv) the injunction, if issued, would not be adverse to the public interest. *Schrier v. Univ. of Co.*, 427 F.3d 1253, 1258 (10th Cir. 2005); *ULBA v. Leavitt*, 256 F.3d 1061, 1066 (10th Cir. 2001); Fed. R. Civ. P. 65. Based on the presentations of counsel and the papers and pleadings on file herein, a temporary injunction is appropriate because all these elements are present.

NO BOND SHOULD BE REQUIRED

Since Defendants will suffer no harm by the issuance of the limited injunction sought herein, either no security or nominal security in the amount of one dollar (\$1.00) should be required.

RELIEF REQUESTED

WHEREFORE, Plaintiffs seek and are entitled to immediate temporary relief as follows:

1. Defendants and their agents, officers, and employees should be enjoined from enforcing Brigham City Code Title 16, Section 16.04 against Main Street Church.
2. Defendants and their agents, officers, and employees should be enjoined from enforcing any limitation set out in the August 21 permit granted to Main Street Church.
3. The Court should order that Main Street Church must be allowed access to all public sidewalks in Brigham City, effective immediately.

4. No bond should be required for the issuance of the temporary restraining order.

5. For such other and further relief as the court deems just and proper.

Respectfully submitted,

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

by _____/s/_____
John Mejia