

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

| | | |
|---|---|----------------------|
| CITY WALK – URBAN MISSION, INC.) |) | |
| a Florida not for profit corporation,) |) | |
| |) | |
| Plaintiff,) |) | |
| |) | |
| v.) |) | Case No. 20-cv-_____ |
| |) | |
| WAKULLA COUNTY, FLORIDA, a) |) | |
| political subdivision of the state of Florida,)) |) | |
| |) | JURY TRIAL DEMANDED |
| Defendant,) |) | |

**VERIFIED COMPLAINT FOR DECLARATORY JUDGMENT,
INJUNCTIVE RELIEF, AND DAMAGES**

Plaintiff, City Walk – Urban Mission, Inc. (“City Walk”), by its undersigned attorneys, files this complaint against Defendant Wakulla County, Florida, (“County”) and alleges that:

Parties

1. City Walk is a church that is compelled by its sincerely held religious beliefs to provide transitional housing for the homeless, including some who are registered sex-offenders. Since 2013, City Walk’s transitional housing ministry has been located at 55 Ball Ct., Crawfordville, FL 32327 (the “Property”) in Wakulla County.

Exhibit A, Declaration of Renee Miller, at ¶¶ 3-19.

2. The Property is in the jurisdiction of Defendant Wakulla County and subject to Wakulla County’s Land Use Development Code (the “Code”).

Nature of the Case

3. City Walk challenges the County's prohibition of City Walk's transitional housing ministry at the Property and the County's failure to provide any use districts within its jurisdiction wherein such a transitional housing ministry for three or more unrelated adults can locate.

Jurisdiction, Request for Advancement on the Court's Calendar, and Venue

4. This Court has original subject matter jurisdiction over this case under:
- a. 42 U.S.C. § 2000cc-2(f) and 28 U.S.C. § 1331, as this action arises under the United States Constitution and laws of the United States;
 - b. 28 U.S.C. § 1343(a)(3), as this case is brought to redress deprivations under color of state law, of rights, privileges and immunities secured by the United States Constitution;
 - c. 28 U.S.C. § 1343(a)(4), as this case seeks to recover equitable relief under acts of Congress, specifically 42 USC § 1983 and 42 U.S.C. § 2000cc, which provide causes of actions for the protection of civil and constitutional rights and injunctive remedies;
 - d. 28 U.S.C. § 2201(a), as this case seeks declaratory relief under 28 U.S.C. § 2202;
 - e. 42 U.S.C. § 1988, to secure reasonable attorney fees as part of the case;

f. supplemental jurisdiction pursuant to 28 U.S.C. § 1367(a) over the state law claims which are part of the same case or controversy.

5. Venue is proper in this district under 28 U.S.C. § 1391(b)(1) because Defendant Wakulla County is situated in this district and under 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rising to the claims occurred in this district.

6. City Walk also respectfully requests a speedy decision and advancement on this Court's calendar under Fed. R. Civ. P. 57 and 28 U.S.C. § 2201.

City Walk's Religious Land Use

7. City Walk was incorporated as a Florida not-for-profit corporation in July, 2012. **Exhibit A** at ¶ 3.

8. City Walk exists to spread the Gospel of Jesus Christ to all men. *Id.* at ¶ 4.

9. City Walk believes that God has called it to serve those in need, particularly those who may be the most shunned in society—registered sex offenders. *Id.* at ¶ 5.

10. City Walk's motto—"Every saint has a past. Every sinner has a future"—reflects its religious mission to serve everyone regardless of their past in the hope that they may find new and eternal life in Jesus. *Id.* at ¶ 6.

11. City Walk believes, and the Bible teaches, that:

- all men were created in the image of God. Genesis 1:27
- all have sinned and fallen short of the glory of God. Romans 3:23

- whoever believes in Jesus is not condemned but is forgiven. John 3:16
- anyone who puts their faith in Jesus is a new creation. 2 Cor. 5:17
- followers of Jesus are commanded to welcome the stranger and serve those in need by providing love and shelter to those the world has rejected. Matthew 25:35-40
- Jesus set the example of preparing rooms for those who believe in Him. John 14:1-3.

Id. at ¶ 7.

12. In furtherance of City Walk's sincerely held religious beliefs and in response to God's commands, City Walk was led to open a transition home for men in Wakulla County. *Id.* at ¶ 8.

13. City Walk has enough space in the three bedroom home at the Property to host three or more unrelated adults. *Id.* at ¶ 9.

14. City Walk believes it is called by God to use what space it has at the Property to serve those in need. *Id.* at ¶ 10.

15. City Walk intends to continue to host three or more unrelated adults in its transition home. *Id.* at ¶ 12.

16. City Walk believes it is called by God to expand its transition home ministry. *Id.* at ¶ 11.

17. Those who participate in City Walk's transition home ministry are expected to abide by rules including being present for religious devotion periods and abstaining from drug and alcohol use. *Id.* at ¶ 13.

18. City Walk has organized its transition home ministry to be a twelve month program, though some men leave the home much earlier. *Id.* at ¶ 14.

19. The men do not pay rent, but they do pay a program fee which covers the counseling, job training, job placement, food, and lodging that they receive from City Walk. *Id.* at ¶ 15.

20. Men who participate in the program, and who do not otherwise have a job, work at City Walk's Thrift Store and Outreach Center in Tallahassee, Florida. *Id.* at ¶ 16.

21. The religious goal of the transition home ministry is to help the men find love, forgiveness, and a new life in Jesus—a life that seeks and grows in righteousness and holiness. *Id.* at ¶ 17.

22. Since 2013, about eighty men have participated in, and been blessed by, City Walk's transition home ministry. *Id.* at ¶ 18.

23. Since 2013, there has never been a period of six months during which City Walk has not operated the transition home ministry at the Property. *Id.* at ¶ 19.

Zoning at the Time City Walk Opened Its Transition Home in 2013

24. Chapter 5 of the Code establishes a comprehensive zoning scheme, dividing the County into districts and setting forth the restrictions that apply to each district.

25. The complete Code is available online at: https://library.municode.com/fl/wakulla_county/codes/code_of_ordinances (last visited on April 23, 2020), and the relevant portions of the Code are attached as **Exhibit B**.

26. Wakulla County first adopted zoning districts on July 23, 1985. *See Exhibit C*, Ordinance No. 2015-16.

27. At all relevant times, the Property has been zoned RR-1 Semi-Rural Residential. *See Exhibit D*, Code Enforcement Order of July 13, 2015 at p. 3, and **Exhibit E**, 2020 Notice of Repeat Violation.

28. Before City Walk opened the transition home ministry at the Property, City Walk Pastor and Director, Ms. Renee Miller, called Wakulla County's Planning and Zoning Department to ask if there was anything City Walk needed to do before it opened its transition home ministry at the Property. The Planning and Zoning Department informed Ms. Miller over the phone that City Walk could have up to six unrelated people at the home and read her the Code provision pertaining to a "family care home." **Exhibit A** at ¶ 20.

29. At the time, “family care home” was defined under Section 2-4(40)(c) of the Code as: “Any dwelling occupied by six or fewer persons, including staff, whether operated for profit or not, which provides for a period exceeding 24 hours, one or more personal services for persons who require such services not related to the owner or administrator by law, blood, marriage or adoption, and not in foster care. The personal services, in addition to housing and food services, may include but not be limited to personal assistance with bathing, dressing, housekeeping, adult supervision, emotional security and other related services, but not including medical services. For the purposes of this Code, family care homes shall not be deemed to include rooming or boarding homes, fraternities, sororities, clubs, monasteries or convents, hotels, emergency shelters, residential treatment facilities, recovery homes or nursing homes.” *See* page 2 of **Exhibit C**, Ordinance Number 2015-16 (which later amended the Code to remove “family care home.”)

30. At the time, a “family care home” was permitted as a principal use in the RR-1 district. *Id.* at pages 8-9.

31. Based on the representations of the Planning and Zoning Department, City Walk believed that it could have up to six unrelated people at the Property and that the County considered the use to permitted as of right as a family care home under the Code. **Exhibit A** at ¶ 21.

32. Thereafter, in August 2013, City Walk entered into a ten year lease for the Property (which consists of a three bedroom home on a 3.43 acre parcel); the landlord is Ms. Ellen Miller who is not affiliated with City Walk. *Id.* at ¶ 22.

33. Based on the authorization it received from the Planning and Zoning Department, City Walk drafted the lease to reflect that it was authorized to use the Property as a family care home. *Id.* at ¶ 23.

34. City Walk then proceeded to use the Property for its transition home ministry, typically allowing three men to stay there at any given time. *Id.* at ¶ 24.

County's Efforts to Shut Down and Harass City Walk's Ministry

35. For more than a year and a half after it entered into its lease in August 2013, City Walk operated its transition home ministry at the Property without issue or complaint from the County. *Id.* at ¶ 25.

36. However, upon information and belief, neighbors living on Ball Ct. filed complaints with Wakulla County Code Enforcement on or about March 10, 2015 after they learned that the home was being used by registered sex offenders.

37. On or about March, 14, 2015, City Walk co-director Anthony Miller brought residents home at approximately 6:30 pm and noticed that someone had posted numerous flyers containing the Florida Department of Law Enforcement ("FDLE") registration page for one of City Walk's transition home residents on fence posts, stop signs, and trees near the Property. *Id.* at ¶ 27.

38. On or about March 15, 2015, City Walk received notice that more flyers were being posted all over the neighborhood. Director Renee Miller then went to the nearby residents accompanied by a Wakulla County police officer and spoke to Mr. Scott Taranto who owns property adjacent to the Property. Mr. Taranto was screaming about City Walk's resident being in the neighborhood and said, "The county is suing you and they're about to shut you down." *Id.* at ¶ 28.

39. Before March 15, 2015, no other property owners or county officials had ever reached out to City Walk about City Walk's transition home ministry. *Id.* at ¶ 29.

40. On or about March 16, 2015, City Walk then received mail from the Wakulla County Tax Collector stating it had been notified that City Walk was running a business at the Property and needed to call to obtain a business license. *Id.* at ¶ 30.

41. City Walk has never needed a business license to operate its transition home ministry. *Id.* at ¶ 31.

42. On or about March 17, 2015, City Walk called the County's Tax Collector's office to state that City Walk was not conducting any business on the Property for which City Walk would need a license. *Id.* at ¶ 32.

43. Upon information and belief, on or about March 18, 2015, a Wakulla County Sheriff's Deputy entered the Property without a warrant and in disregard of

the No Trespassing signs and closed driveway gate. The Deputy proceeded to take pictures of the Property and then email the pictures to Mr. Taranto. The officer informed Mr. Taranto that she did not find anything criminal but encouraged him to send the pictures she took to code enforcement to try and find a code violation.

44. Upon information and belief, Mr. Taranto then sent the pictures with the officer's comments to code enforcement officer, Mr. Luis Serna.

45. On or about April 18, 2015, Mrs. Miller received a call from Sgt. Lorne Whaley of the Wakulla County Sheriff's Office ("WCSO"). *Id.* at ¶ 35.

46. Sgt. Whaley told Mrs. Miller that she and Mr. Miller must report to the WCSO and sign no trespass warnings for the neighbor's property. *Id.* at ¶ 36.

47. Mr. and Mrs. Miller had never been to, nor did they personally even live near, the neighbor's property. *Id.* at ¶ 37.

48. Mrs. Miller declined, and Sgt. Whaley then said words to the effect of, "We can do this at your convenience or mine. I'll come by your house and have you sign it." *Id.* at ¶ 38.

49. Mrs. Miller then told Sgt. Whaley she would not sign any trespass warning for a property she never had gone on and lived five miles from. *Id.* at ¶ 39.

50. Sgt. Whaley then informed Mrs. Miller, "I hate what you're doing. I hate who you help. We are watching you." Mrs. Miller replied, "you can watch me but I'm not breaking any laws." Sgt Whaley replied "We'll decide that. I'll tell you

if you're breaking the law. I'll follow you until I find a reason to arrest you." *Id.* at ¶ 40.

51. Mrs. Miller then told Sgt Whaley words to the effect of "Florida statutes will decide if I'm breaking laws. The neighbors, however, are harassing us and stalking us and you're not protecting us or our rights." *Id.* at ¶ 41.

52. Sgt. Whaley replied, "They [meaning the men in City Walk's program] have no rights in my opinion. They will always be criminals to me and I have to protect this community from them. I want to see them back where they came from." *Id.* at ¶ 42.

53. On or about April 19, 2015, City Walk received a slip in the mail indicating that it had a certified letter to pick up at the post office. *Id.* at ¶ 43.

54. On or about April 21, 2015, Mr. Miller went to pick up the certified mail at the post office but had the post office clerk put REFUSED on the letter and send it back after he saw that it was from the WCSO. *Id.* at ¶ 44.

55. On or about April 22, 2015, Sgt. Whaley then called Mr. Miller and left a voicemail to call him back. He then called Mrs. Miller and screamed at her for sending the letter back and yelled into the phone "CONSIDER YOURSELF WARNED!" *Id.* at ¶ 45.

56. Thereafter, the landlord for the Property, Ms. Ellen Miller, received a Notice of Violation which charged her with using the Property as a “boardinghouse.” *Id.* at ¶ 46.

57. City Walk was not identified on the Notice of Violation. *Id.* at ¶ 47.

58. On July 8, 2015, a public hearing was held in front of the Wakulla County Code Enforcement Board (the “Board”). **Exhibit D**.

59. Mrs. Renee Miller of City Walk attended the hearing and discovered that the County had hired a private attorney to represent the County and the neighbors. *Id.* at ¶ 49.

60. At the hearing, Mrs. Renee Miller witnessed the county attorney, the private attorney, and the neighbors go into a private room for a meeting. *Id.* at ¶ 50.

61. At the hearing, and as reflected in the FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER attached hereto as **Exhibit D**, the Board made a number of findings including a finding that three sexual offenders were residing on the Property.

62. The Board concluded that Ellen Miller was allowing the property to be used as a “boardinghouse” or “recovery home”—uses which were not permitted in the RR-1 District or anywhere else in the County. *Id.*

63. The Code defines “boardinghouse” as “any building or part thereof, other than a hotel, motel or restaurant, where meals or lodging are provided for a fee

for three or more unrelated persons where no cooking or dining facilities are provided in individual rooms.” **Exhibit B** at Code Sec. 2-4(15).

64. At the time “recovery home” was defined as “a group residential facility with one or more supervisors living on premises conducted as a family home with professional staff services as needed providing board, lodging, supervision, medication and other treatment and counseling for persons progressing from relatively intensive treatment for crime, mental or emotional illness, delinquency, alcoholism, drug addiction or similar conditions in need of a structured environment to deal with such conditions. **Exhibit C** at Code Sec. 2-4(40)(e).

65. As a result of the code enforcement hearing, Ellen Miller was ordered to cease using the Property as a boardinghouse and was ordered to pay a fine of \$150.00. **Exhibit D**.

66. The Board’s Order also provided that the Code Enforcement Officer would inspect the Property again to verify that the Board’s Order was complied with by July 29, 2015. **Exhibit D**.

67. Upon information and belief, the Code Enforcement Officer inspected the Property on or before July 29, 2015 and filed an Affidavit of Compliance with the Board noting that Ms. Ellen Miller had complied.

68. On July 31, 2015, the Board entered an Order Acknowledging Compliance which declares that Ms. Ellen Miller had complied.

October 2015 Code Amendment

69. On October 19, 2015, the Wakulla County Board of Commissioners passed and adopted Ordinance Number 2015-2016 (**Exhibit C**).

70. The Ordinance deleted a number of transition home type uses from the Code, including “emergency shelter,” “emergency home shelter,” “family care home,” “group care home,” “recovery home,” and “residential treatment facility.

Exhibit C.

71. The Ordinance also removed “emergency shelter homes” and “family care homes” as permitted principal uses in the RR-1 Semi Rural District. *Id.*

72. However, in accordance with Florida State Statute Chapter 419.000(f), the County had to allow a “community residential home” in the RR-1 district.

73. Florida State Statute, Ch. 419.001(1)(a) defines “community residential home” to mean a dwelling unit licensed to serve residents who are clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department of Children and Families or licensed by the Agency for Health Care Administration which provides a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of Residents.”

74. Chapter 419.001(f)(2) provides that “[h]omes of six or fewer residents which otherwise meet the definition of a community residential home shall be deemed a single-family unit and a noncommercial, residential use for the purpose of local laws and ordinances. Homes of six or fewer residents which otherwise meet the definition of community residential home shall be allowed in single-family or multi-family zoning without approval by the local government, provided that such homes are not located within 1,000 feet of another existing home with six or fewer residents or within a radius of 1,200 feet of another existing community residential home.”

75. After Ordinance 2015-2016 was adopted, a state licensed, community residential home facility could house up to six unrelated people on a property located in the RR-1 district but a transition home ministry like City Walk’s could not.

76. After Ordinance 2015-2016 was adopted, a state licensed, community residential home facility could locate in 22 of the County’s districts while a transition home ministry like City Walk’s was prohibited in all use districts.

Current Zoning

77. Section 5-1 of the Code provides:

(1)Use. No building or structure shall be erected, and no existing building shall be moved, altered, added to or enlarged, nor shall any land, building, structure or premises be used, designed or intended to be used for any purpose or in any manner other than a use designated in this chapter as a conforming use and as allowed in the zoning district in which such land, building, structure or premises is located. If necessary in the enforcement

of this chapter, any interpretations regarding the proposed permitting of any use which is not specifically defined or enumerated in this chapter in a specific zoning district shall be based on definitions in the most recent standard industrial classification publication and the intent of the specific zoning district.

Exhibit B at Sec. 5-1.

78. According to Section 5-22 of the Code, the County is divided into numerous zoning districts. *Id.* at Sec. 5-22 & Sec. 5-23 through Sec. 5-43.

79. Section 5-27 governs the uses allowed in the RR-1 Semi-Rural District. *Id.* at Sec. 5-27.

80. According to Section 5-27, the intent of the RR-1 Semi-Rural District is to “establish areas where low residential densities may be maintained and to provide a transition between very low-density rural residential areas and more densely developed urban residential areas.” *Id.* at Sec. 5-27.

81. According to Section 5-27, the only uses that are allowed as “principal uses” in the RR-1 Semi-Rural District are:

1. Community residential home (small).
2. Light Infrastructure.
3. Mobile Homes.
4. Single Family Dwellings.

Exhibit B at Sec. 5-27.

82. Under the Code, City Walk’s transition home does not qualify as any one of the four uses permitted as principal uses under Section 5-27.

83. According to Section 5-27, the only uses that are allowed as “Conditional use” in the RR-1 Semi-Rural District are:

1. Cemeteries.
2. Churches and other houses of worship including convents and rectories.
3. Public and private recreation facilities.
4. Schools.

Exhibit B at Sec. 5-27.

84. Under the Code, City Walk’s transition home does not qualify as any one of the four uses classified as conditional uses under Section 5-27.

85. Because City Walk’s transition home does not qualify as any one of the uses classified as principal or conditional uses under Section 5-27, its use is prohibited in the RR-1 Semi-Rural District according to the Code. *Id.* at Sec. 5-1.

86. Moreover, under the Code, a transition home for three or more unrelated adults like City Walk’s is not allowed as a principal or conditional use in any one of the County’s zoning districts. *See generally*, **Exhibit B** at Sec. 5-23 through Sec. 5.43.

2020 Notice of Repeat Violation

87. On or about March 4, 2020, the County issued a Notice of Repeat Violation to City Walk's landlord, Ms. Ellen Miller, based on an alleged complaint the County received on or about February 24, 2020. **Exhibit E**.

88. The Code defines "repeat violation" as "a violation of a provision of the code or ordinance by a person whom the code enforcement board has previously found to have violated the same provision within five years prior to the violation."

Exhibit B at Sec. 8.065

89. Here, the Notice of Repeat Violation states that the Property is being used in violation of Section 5-27 of the Code which does not allow for three (3) non-related persons to use the same dwelling as their residence unless they are residents of a community residential home facility. *Id.*

90. The Notice of Repeat Violation also states that the Property is being used as a boardinghouse, as defined in Section 2-4(15) of the Code. *Id.*

91. The Notice of Repeat Violation contains a cease and desist order which required Ms. Ellen Miller to put an end to the use of the Property as a dwelling for house three or more non-related persons by March 18, 2020. *Id.*

92. The Notice of Repeat Violation further provides that: "If you fail to correct the violation(s) on your property by the Date for Compliance stated above, your case will be presented to the Code Enforcement Board at its next available

meeting for consideration of the imposition of fines and costs, including the cost of taking the corrective action and administrative charge to recover the administrative costs associated with your case, regardless of whether the violation is corrected prior to the hearing.” *Id.*

93. Under Sec. 1.006 of the Code, the punishment for violating the Code is a “fine not to exceed \$500.00, or by imprisonment in the county jail for a term not to exceed 60 days, or by both such fine and imprisonment.” **Exhibit B** at Sec. 1.006. And “[w]ith respect to violations of [the] Code that are continuous with respect to time, each day the violation continues is a separate offense.” *Id.*

94. The Notice of Repeat Violation against Ellen Miller was issued by Wakulla County Code Enforcement Officer Lynda Brahier on March 4, 2020.

95. A Code Enforcement Board hearing was originally scheduled to meet for May 13, 2020 but the meetings of the Board have been canceled indefinitely pending further notice.

96. Under the Code, the jurisdiction of the board is not exclusive, and any alleged violation of the Code “may be pursued by appropriate remedy in court at the option of the administrative official whose responsibility is [sic] to enforce that respective code or ordinance.” **Exhibit B** at Sec. 8.062(c).

97. Under the current Code, a “boarding house” is not allowed as a principal use or conditional use in any zoning district within the jurisdiction of Wakulla County. **Exhibit B.**

98. Under the current Code, a “group home” is not allowed as a principal use or conditional use in any zoning district within the jurisdiction of Wakulla County. **Exhibit B.**

99. Under the current Code, City Walk’s transition home ministry for three or more unrelated people is not allowed as a principal use or conditional use in any zoning district within the jurisdiction of Wakulla County. **Exhibit B.**

100. On April 8, 2020, Wakulla County’s Director of Planning and Community Development, Ms. Somer Pell, confirmed by e-mail that under the Current Code there are no use districts wherein a group home may locate either as a principal or conditional use.

101. According to what Ms. Pell informed City Walk, there is nowhere in the County where City Walk may locate its transition home ministry. **Exhibit A** at ¶ 51.

102. Based on what the County produced in response to City Walk’s recent public record request, the County has not issued any code violations or taken any action on any other property in Wakulla County other than City Walk’s leased

property for using a dwelling to house three or more non-related persons. **Exhibit A** at ¶ 52.

Promised Land Ministries Allowed to Operate in RR-1 District

103. According to its website, “Promised Land Ministries Lighthouse is a Church dedicated to helping people find freedom in Christ.” <https://www.promiselandministries.org/> (last visited on April 21, 2020).

104. Promised Land operates a housing ministry in the County for men and women dealing with substance-abuse that is similar to City Walk’s transition housing program.

105. The County allowed Promise Land to establish and operate its housing ministry in the RR-1 district after Ordinance 2015-2016 was adopted.

106. Upon information and belief, Promise Land is a church and its housing ministry is not licensed by the state to serve as a “community residential home.”

107. Upon information and belief, Promise Land’s ministry is not designed to serve registered sex offenders.

108. City Walk’s transition home ministry has been singled out for discriminatory treatment because it serves registered sex offenders and has not been treated on equal terms with Promise Land or the community residential home facilities that the County permits to operate in the RR-1 district.

Additional Allegations

109. The three current residents of City Walk's transition home would suffer physically, emotionally and spiritually, and would be homeless if City Walk's transition home is shut down. **Group Exhibit F**, Declarations of Dillon Murray, Brent Gimple, and Calvin McFarland.

110. The City Walk transition home has been broken into multiple times and has had its windows broken. **Exhibit A** at ¶ 53.

111. Mr. Taranto has taken City Walk's trash can from the driveway at the Property on trash pick-up day and dumped the contents all over the road. He would then film the residents picking it up saying "look at the trash picking up the trash." City Walk has notified the County about Mr. Taranto's actions but upon information and belief, the County has taken no action against Mr. Taranto. *Id.* at ¶ 54.

112. On or about May 3, 2015, Mr. Taranto built an A-frame swing-set and put it in the ditch on the side of the road and called it a "park." Upon information and belief, he then alerted the WCSO and the WCSO then refused to register new people coming in to the home siting the swing-set Mr. Taranto had built as a park. As a result, City Walk had to contact the State of Florida to verify that the WCSO could not treat the swing set as a park, and a Florida State's Attorney then had call the WCSO to tell them it did not constitute a park by Florida law and that they had to register City Walk's residents. *Id.* at ¶ 55.

113. Numerous times when registering new residents, City Walk has had to contact the Florida Department of Law Enforcement to force WCSO to register them. The Florida State probation office has had to get involved many times. *Id.* at ¶ 56.

114. Most recently, on or about November 12, 2019, City Walk took a new resident to register before reporting to probation. City Walk took him there twice and both times the officer refused to register him. It was apparent that the WCSO was trying to wait out the 48 hours so they could arrest the resident for failing to register. City Walk was forced to ask a favor from Leon County and took him to register at LCSO on November 13, 2019 for the address in Wakulla. *Id.* at ¶ 57.

115. Again, in February 2020, City Walk took in another man and the WCSO officer said the man did not need to register the vehicles in the home. City Walk took him back the next day to register the vehicles after contacting FDLE and making sure the relevant Florida statutes had not changed and that he was in fact required to register all vehicles in the home. *Id.* at ¶ 58.

116. Upon information and belief, WCSO is working in tandem with the County's Code Enforcement to shut City Walk's transition home ministry down.

117. The WCSO is an arm of the County and fulfills its policing function.

118. Before he retired in 2018, Wakulla County Building Inspector James Melvin told City Walk co-founder and director, Renee Miller, "If you ever say I said

this I will deny it. But if you just promise not to help any more sex offenders we'll promise to leave you alone.” *Id.* at ¶ 59.

119. Because of the County’s unequal treatment and efforts to prohibit City Walk’s transition home, City Walk has suffered significant aggravation and inconvenience its effort to exercise its religious beliefs and serve those in need. *Id.* at ¶ 60.

120. To survive the County’s unequal treatment of City Walk’s transition home and efforts to prohibit City Walk’s transition home, City Walk’s leadership has had to spend time, energy, and funds which could have otherwise been spent accomplishing City Walk’s religious mission. *Id.* at ¶ 61.

121. Because of the County’s unequal treatment and efforts to prohibit City Walk’s transition home, City Walk has suffered financial loss including the losses associated with having to turn people away as there is a waiting list for men in need seeking shelter and to participate in the program. *Id.* at ¶ 62.

COUNT I
Violation of the Religious Land Use and Institutionalized Persons Act
Equal Terms Claim, 42 U.S.C. § 2000cc(b)(1)

122. The allegations contained in all preceding paragraphs are incorporated here by reference.

123. Congress defined “religious exercise” to broadly include:

“any exercise of religion, whether or not compelled by, or central to, a system of religious belief,” and specifies that the “use, building, or

conversion of real property for the purpose of religious exercise shall be considered to be religious exercise of the person or entity that uses or intends to use the property for that purpose.”

42 U.S.C. 2000cc-5(7).

124. Congress further directed that RLUIPA should be “construed in favor of a broad protection of religious exercise, to the maximum extent permitted by the terms of this chapter and the Constitution.” 42 U.S.C. 2000cc-3(g).

125. Under RLUIPA’s Equal Terms provision, “[n]o government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution.” 42 U.S.C. § 2000cc(b)(1).

126. The plaintiff bears the initial burden of “produc[ing] prima facie evidence to support a[n equal terms] claim,” and thereafter “the government . . . bear[s] the burden of persuasion on any element of the claim.” 42 U.S.C. § 2000cc–2(b).

127. A claimant must produce *prima facie* evidence that: (1) the claimant is a religious assembly or institution, (2) subject to a land use regulation that (3) treats the religious assembly or institution on less than equal terms, with (4) a nonreligious assembly or institution. 42 U.S.C. § 2000cc(b)(1)).

128. City Walk is a “religious assembly or institution” under RLUIPA, 42 U.S.C § 2000cc et seq..

129. The County is a “government” under RLUIPA, 42 U.S.C. § 2000cc-5(4)(A), and is responsible for its ordinances as well as the acts, omissions, and interpretations of its officials, employs, and commissioners.

130. City Walk’s use of the Property is subject to the land use and zoning regulations contained in the Code.

131. The County has treated City Walk on less than equal terms with the non-religious institutions which are permitted as principal uses within the RR-1 Semi-Rural Residential District pursuant to Sec. 5-27.

132. Specifically, within a RR-1 District, a “community residential home (small)” is permitted as of right as a principal use. Sec. 5-27.

133. The Code defines “community residential home (small)” facility as:

“A dwelling unit licensed to serve residents who are clients of the department of elder affairs, the agency for persons with disabilities, the department of juvenile justice, or the department of children and families or licensed by the agency for health care administration or other applicable state agency which provides a living environment for six or fewer unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents. A community residential home (small) shall not be located within a radius of 1,000 feet of another existing such community residential home (small). Community residential homes (small) shall comply with all notification requirements and procedures found in F.S. ch. 419.

Exhibit B at Sec. 2-4 (44).

134. Under the Code, a community residential home (small) is permitted as a principal use in 22 different use districts. **Exhibit B.**

135. Under the Code, a transition home like City Walk's is not permitted as a principal or condition use in any of the County's districts, and because the Code prohibits the County from granting use variances, *see Id.* at Sec. 2-4 (203), City Walk cannot seek or obtain a variance to establish or expand a use which is prohibited under the Code.

136. Under the Code, a community residential home (small) may house up to six unrelated residents in the RR-1 district.

137. Under the Code, City Walk cannot house up to six unrelated residents as part of its transition home ministry at the Property in the RR-1 district.

138. City Walk does not need a state license to operate its transition home ministry. **Exhibit A** at ¶ 31.

139. The County's unequal treatment of City Walk's religious land use at the Property violates the equal terms provision of RLUIPA.

140. The County's unequal treatment of religious and non-religious recovery or transition homes throughout its jurisdiction violates the equal terms provision of RLUIPA.

141. As a direct result of the County's violations of City Walk's rights under 42 USC § 2000cc(b), as alleged above, City Walk is suffering irreparable harm for which there is no adequate remedy at law.

142. Furthermore, as a direct result of the County's violations of City Walk's rights under 42 USC § 2000cc(b), as alleged above, City Walk has suffered damages and is entitled to recover equitable relief, damages, costs, and attorney fees.

WHEREFORE City Walk is entitled to the relief requested below.

COUNT II
Violation of the Religious Land Use and Institutionalized Persons Act
Substantial Burden Claim, 42 U.S.C. § 2000cc(b)(1)

143. The allegations contained in all preceding paragraphs are incorporated here by reference.

144. Congress provided in Section 2(a)(1) of RLUIPA statutory protections for "religious exercise" as follows:

"No government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly, or institution . . . is in furtherance of a compelling government interest [and] is the least restrictive means of furthering that compelling government interest."

42 U.S.C. 2000cc(a)(1).

145. The County has made an "individualized assessment" of City Walk's land use within the meaning of 42 U.S.C. § 2000cc(a)(2)(C).

146. The County's imposition of its land use regulations on City Walk's use of the Property affects "commerce among the several States" within the meaning of 42 U.S.C. § 2000cc(a)(2)(B).

147. The County has imposed its land use regulations in a manner which places more than an inconvenience on City Walk's religious exercise.

148. The County has imposed its land use regulations in a manner which places significant pressure on City Walk to forego its religious exercise both at the Property and in the County.

149. Because the County's land use regulations have been implemented or imposed in a manner that substantially burdens City Walk's religious exercise, the County bears the burden to show that the imposition of the burden furthers a compelling government interest and is the least restrictive means of furthering that interest. 42 U.S.C. § 2000cc-2(b).

150. The County has implemented or imposed its land use regulations in a manner that prevents City Walk from using its existing facilities to meet its religious needs and those it seeks to serve.

151. The County has implemented or imposed its land use regulations in a manner which provides City Walk no alternative locations within the jurisdiction wherein to locate its transition home for three or more unrelated adults.

152. The manner in which the County has imposed its land use regulations to deny and restrict City Walk's use of the Property is not supported by a compelling governmental interest, nor is it the least restrictive means of furthering any compelling governmental interest.

153. Accordingly, the County has imposed a "substantial burden" on City Walk's religious exercise in violation of RLUIPA, 42 USC § 2000cc(a)(1).

154. The County has implemented and imposed its land use regulations in a manner which has placed substantial pressure on City Walk to modify its behavior and violate its religious beliefs. **Exhibit A** at ¶ 63.

155. The County's actions have created considerable expense and uncertainty for City Walk and its transition home residents in their religious use of the Property. *Id.* at ¶ 64.

156. The County has imposed its land use regulations in manner which has caused City Walk to suffer financial loss.

157. As a direct result of the County's violation of City Walk's rights protected under RLUIPA, 42 USC § 2000cc(a), City Walk is suffering irreparable harm for which there is no adequate remedy at law.

158. Furthermore, as a direct result of the County's violation of City Walk's rights under RLUIPA, 42 USC § 2000cc(a) as alleged above, City Walk is entitled to equitable relief, damages, and the recovery of its costs and attorney fees.

WHEREFORE City Walk is entitled to the relief requested below.

COUNT III

**Violation of the Religious Land Use and Institutionalized Persons Act
Exclusions and Limits Claim, 42 U.S.C. 2000cc (b)(3)**

159. The allegations contained in all preceding paragraphs are incorporated here by reference.

160. Section 2000cc (b)(3) of RLUIPA provides (emphasis supplied):

(3) Exclusions and limits.

No government shall impose or implement a land use regulation that-

(A) totally excludes religious assemblies from a jurisdiction; or

(B) unreasonably limits religious assemblies, institutions, or

structures within a jurisdiction.

161. The County's Code totally excludes and unreasonably limits religious institutions like City Walk's transition home ministry.

162. Under the Code, a transition home like City Walk's is not permitted as a principal or condition use in any of the County's districts.

163. Under the Code, there are no districts wherein City Walk could provide transition housing to three or more unrelated persons.

164. Reasonableness is determined in light of all the facts, the economics of the religious organization, and the actual availability of land where the religious organization is permitted to locate.

165. City Walk is an impecunious, not-for-profit ministry. **Exh. A** at ¶ 65.

166. City Walk cannot afford to purchase multiple properties in the County to house only two unrelated adults on each property. *Id.* at ¶ 66.

167. In light of all the facts, the economics of City Walk, and the fact that the County's Code provides no use districts or land within Wakulla County wherein the City Walk could locate its transition home ministry as a permitted use, the County's Code, facially and as applied, totally excludes and unreasonably limits religious institutions, like City Walk, within its jurisdiction.

168. It is also an inherently unreasonable limitation on religious institutions like City Walk to treat them on unequal terms with nonreligious institutions like community residential homes as set forth above.

WHEREFORE City Walk is entitled to the relief requested below.

COUNT IV
Violation of the Religious Land Use and Institutionalized Persons Act
Nondiscrimination Claim, 42 U.S.C. 2000cc (b)(2)

169. The allegations contained in all preceding paragraphs are incorporated here by reference.

170. Under RLUIPA's Nondiscrimination provision, "[n]o government shall impose or implement a land use regulation that discriminates against any assembly or institution on the basis of religion or religious denomination." 42 U.S.C. § 2000cc(b)(2).

171. The County has discriminated against City Walk on the basis of religion as compared to a similarly situated religious institution.

172. The County has allowed Promised Land to operate a housing ministry within a RR-1 District in the County for men and women dealing with substance-abuse.

173. City Walk's transition home ministry is similarly situated to Promised Land's operation of a housing ministry in all relevant respects.

174. The County's unequal treatment of City Walk's religious land use at the Property violates the nondiscrimination provision of RLUIPA.

175. Despite their substantial similarities, the County, through its application of its Code, has treated City Walk on less than equal terms with Promised Land.

176. City Walk's transition home ministry has been singled out for discriminatory treatment as compared to Promised Land because it serves registered sex offenders.

177. As a direct result of the County's violations of City Walk's rights under 42 USC § 2000cc(b)(2), as alleged above, City Walk is suffering irreparable harm for which there is no adequate remedy at law.

178. Furthermore, as a direct result of the County's violations of City Walk's rights under 42 USC § 2000cc(b)(2), as alleged above, City Walk has suffered damages and is entitled to recover equitable relief, damages, costs, and attorney fees.

WHEREFORE City Walk is entitled to the relief requested below.

COUNT V

Violation of the Right to Equal Protection under the Law Guaranteed by the Fourteenth Amendment to the United States Constitution (42 USC § 1983)

179. The allegations contained in all preceding paragraphs are incorporated here by reference.

180. The Code's disparate treatment of City Walk's transition home and a community residential home violates the City Walk's right to the Equal Protection of the law as guaranteed by the Fourteenth Amendment to the United States Constitution.

181. As a direct result of the County's violation of City Walk's Fourteenth Amendment rights as described above, City Walk has been denied the equal protection of the law and is suffering irreparable harm for which there is no adequate remedy of law.

182. As a direct result of the County's violation of City Walk's Fourteenth Amendment rights to equal protection of the law, as alleged hereinabove, City Walk has suffered and is entitled to recover compensatory and nominal damages, costs and attorney fees.

WHEREFORE, City Walk is entitled to the relief requested below.

COUNT VI
Violation of the Florida Religious Freedom Restoration Act
(Fla. Stat. § 761.03)

183. The allegations contained in all preceding paragraphs are incorporated here by reference.

184. Pursuant to Section 761.03 of Florida's Religious Freedom Restoration Act (RFRA), "[t]he government shall not substantially burden a person's exercise of religion, even if the burden results from a rule of general applicability, except that government may substantially burden a person's exercise of religion only if it demonstrates that application of the burden to the person: (a) Is in furtherance of a compelling governmental interest; and (b) Is the least restrictive means of furthering that compelling governmental interest." Fla. Stat. § 761.03.

185. Because the County's land use regulations have been implemented or imposed in a manner that substantially burdens City Walk's religious exercise, the County bears the burden to show that the imposition of the burden furthers a compelling government interest and is the least restrictive means of furthering that interest. Fla. Stat. § 761.03.

186. The manner in which the County has imposed its land use regulations to deny and restrict City Walk's use of the Property is not supported by a compelling governmental interest, nor is it the least restrictive means of furthering any compelling governmental interest.

187. Accordingly, the County has imposed a “substantial burden” on City Walk’s religious exercise in violation of Florida’s RFRA, codified at Fla. Stat. § 761.03.

188. As a direct result of the County’s violation of City Walk’s rights protected under Florida’s RFRA City Walk is suffering irreparable harm for which there is no adequate remedy at law.

189. Furthermore, as a direct result of the County’s violation of City Walk’s rights under Florida’s RFRA as alleged above, City Walk is entitled to equitable relief, damages, and the recovery of its costs and attorney fees.

PRAYER FOR RELIEF

WHEREFORE, City Walk respectfully requests a judgment against Defendant Wakulla County and that this Honorable Court:

- a. Adjudge, decree and declare the rights and other legal relations of the parties to the subject matter in controversy in order that such declaration shall have the force and effect of final judgment and that the Court retains jurisdiction of this matter for the purpose of enforcing the Court’s Order;
- b. Pursuant to 28 U.S.C. § 2201 and Fed. R. Civ. P. 57, declare that City Walk may immediately continue its transition home ministry at the Property for up to six unrelated people like a community residential home is allowed to at the Property;

c. Pursuant to 28 U.S.C. § 2202, Fed. R. Civ. P. 64, 42 U.S.C. § 1983 and 42 U.S.C. § 2000cc-4 preliminarily and permanently enjoin the County from enforcing its land use regulations to prevent City Walk from operating its transition home ministry at the Property for up to six unrelated people like a community residential home is allowed to at the Property;

d. Pursuant to 28 U.S.C. § 2202, Fed. R. Civ. P. 65, 42 U.S.C. § 1983 and 42 U.S.C. § 1988 and 42 U.S.C. § 2000cc-2(a), award City Walk all necessary and appropriate relief including compensatory and nominal damages;

e. Declare that the County has violated City Walk's rights under the aforementioned provisions of RLUIPA, the First and Fourteenth Amendments of the United States Constitution, and Florida's RFRA;

f. Declare that the County's prohibition of City Walk's use of the Property is arbitrary and capricious;

g. Pursuant to 42 USC § 1988, 42 USC § 2000cc-2(d), Fed. R. Civ. Pro. 54(d) and other applicable law, award City Walk its reasonable attorney fees, costs; and

h. Grant such other and further relief as the Court deems equitable, just and proper.

Plaintiff demands trial by jury.

Respectfully Submitted,
DALTON & TOMICH, PLC

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*Lead Attorney for Plaintiff
City Walk – Urban Mission, Inc.*

*Pending Admission *Pro Hac Vice*

**THOMPSON, CRAWFORD &
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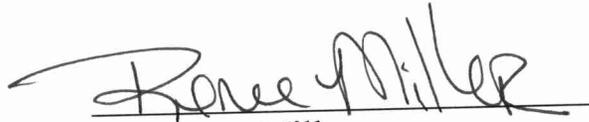
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Verification

Pursuant to 28 U.S.C. §1746, I, Pastor Renee Miller of City Walk – Urban Mission, Inc., declare under penalty of perjury, that I have personal knowledge of matters contained in paragraphs 1, 7-23, 28, 31-35, 37-42, 45-57, 59-60, 101-102, 110-115, 118-121, 147-148, 150-151, 155-156, 165-166 of this Complaint and that the allegations contained therein are true and accurate.

Executed this this 5 day of May, 2020

A handwritten signature in black ink that reads "Renee Miller". The signature is written in a cursive style with a long horizontal flourish extending to the left.

By: Renee Miller

Co-Director & Pastor of City Walk – Urban Mission, Inc.