

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

**1:09-cv-276**

**Janet T. Neff  
U.S. District Judge**

FOREST AREA BIBLE CHURCH, a  
Michigan non-profit corporation; PASTOR  
L. CALVIN MEYERS,

Plaintiffs,

v.

VILLAGE OF FIFE LAKE COUNCIL,

Defendant.

Civil Action No.: \_\_\_\_

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

Plaintiffs Forest Area Bible Church and its pastor, L. Calvin Meyers (collectively, the “Church”), by and through counsel, make this Complaint against the Defendant and state as follows:

**INTRODUCTION**

1. This is a civil rights action seeking declaratory and injunctive relief, and damages, against the Village of Fife Lake Council (“Village Council”). The Village Council has made the Village’s Municipal Building meeting room generally available for the public to rent for a wide array of expressive activity, but enforces a rental fee schedule that requires the Church and other religious organizations to pay more to use the facilities than similarly-situated secular organizations, solely because their expression addresses permissible topics from a religious perspective.

2. This discriminatory policy violates the Church’s First Amendment rights of free speech and the free exercise of religion, as well as its Fourteenth Amendment rights of due process and the equal protection of the laws. The policy is also hostile to religion and excessively

entangles the Village Council with religion in violation of the First Amendment's Establishment Clause.

### **JURISDICTION AND VENUE**

3. This is a civil rights action under 42 U.S.C. § 1983 raising federal claims under the First and Fourteenth Amendments to the United States Constitution.

4. The Court has subject matter jurisdiction over this case under 28 U.S.C. § 1331, as this action arises under the First and Fourteenth Amendments to the United States Constitution; under 28 U.S.C. § 1343(a)(3), in that it is brought to redress deprivations, under color of state law, of rights, privileges, and immunities secured by the United States Constitution; under 28 U.S.C. § 1343(a)(4), in that it seeks to secure equitable relief under an Act of Congress, specifically 42 U.S.C. § 1983, which provides a cause of action for the protection of civil rights; under 42 U.S.C. § 1988(b) to award attorneys fees; under 28 U.S.C. § 2201(a) to secure declaratory relief; and under 28 U.S.C. § 2202 to secure preliminary and permanent injunctive relief.

5. Venue is proper under 28 U.S.C. § 1391 in the United States District Court for the Western District of Michigan because a substantial part of the events or omissions giving rise to the claims arose in this district.

### **THE PARTIES**

6. Forest Area Bible Church is a tax-exempt Michigan nonprofit corporation organized for religious, charitable, and educational purposes. The Church is located in Fife Lake, Michigan.

7. L. Calvin Meyers is the Church's pastor and its authorized agent. At all times relevant to this action, he has been a resident of Fife Lake, Michigan.

8. Defendant Village of Fife Lake Council is the governing body of the Village of Fife Lake, an incorporated municipality of the State of Michigan. The Village Council is responsible for adopting regulations that govern the Village of Fife Lake, including policies that govern use of the Village Municipal Building, and for providing oversight of Village administrators and employees.

### **FACTUAL ALLEGATIONS**

9. L. Calvin Meyers founded the Church in 2004, and remains its pastor to this day.

10. The Church's sincerely-held religious beliefs require that its members and participants gather together on a regular basis to collectively express and share its religious beliefs, to discuss principles of living from a Biblical perspective, and to help individuals at the church and in the community at large to overcome challenges that they are confronted with.

11. These meetings typically involve sermons by Pastor Meyers that teach on a subject of community interest from a Biblical perspective, singing, prayer, taking communion, and discussions about moral, social, and community issues.

12. Pastor Meyers' sermons cover a wide array of topics. Some examples of topics that he has addressed from a Biblical perspective include how to develop sound moral character, how to strengthen marriages and effectively raise children, the value of life starting at conception, and the importance of financial responsibility.

13. The Church has made a priority of serving the community at large, particularly those who are the most in need. For example, the Church provided financial support and coordinated government assistance for local residents whose home was in such poor condition that it threatened the safety of its occupants. It obtained a medical alarm for an elderly woman who was living alone. It helped cover financial costs for local families struggling with serious

medical problems. It helped a man who was recently released from jail to get settled into a home and reunited with his family. It provided assistance to a local woman who was unable to work because of her pregnancy. And it has given money and labor to help improve the local public park.

14. From May 2004 through May 2006, the Church held its meetings on Sundays at Forest Area High School, which is located in Fife Lake.

15. Late in 2005, the Church became interested in holding regular weeknight meetings in addition to its Sunday meetings, and Pastor Meyers identified the Village Municipal Building as a suitable location to hold those meetings.

16. In a December 31, 2005 letter to the Village Council, Pastor Meyers requested permission for the Church to use the Municipal Building meeting room for weekly meetings from 5:30 PM to 8:00 PM on either Wednesday or Thursday evenings. Pastor Meyers also offered to attend the next Village Council meeting to answer any questions the Council may have about the Church's meetings. A copy of that letter is attached hereto as Exhibit 1.

17. The Village Council approved the Church's request to use the meeting room for meetings on Wednesday evenings.

18. The Village's Deputy Clerk, Sandra Wilton, sent Pastor Meyers a letter on behalf of the Village Council notifying him of the Council's decision. The letter explained that there were several Wednesday evenings when the meeting room was unavailable, but the Church could use the meeting on weeks it was available. The letter further explained that the Church would be required to pay \$25.00 for each meeting. A copy of Ms. Wilton's letter is attached hereto as Exhibit 2.

19. The Village Council did not request any additional information from the Church. Nor did it provide Pastor Meyers with any information regarding the Village Council's policies governing private rental of the Municipal Building meeting room.

20. Pastor Meyers was concerned about the number of weeks where the Church would not be able to use the meeting room on Wednesday nights. So he sent Ms. Wilton a letter asking her if the Church could instead use the meeting room on Thursday evenings. Pastor Meyers had also learned that the Village Council was allowing other community groups to rent the Municipal Building meeting room at no charge. His letter also requested that Ms. Wilton confirm that the Village Council allows other groups to rent the facility at no charge and, if so, why the Village Council distinguished between those groups and the Church. A copy of Pastor Meyers' letter is attached hereto as Exhibit 3.

21. Neither Ms. Wilton nor the Village Council ever responded to Pastor Meyers' letter.

22. Because of the lack of response from the Village, and the number of Wednesdays that the Church would not be able to use the facility, the Church decided not to begin meeting at the Municipal Building at that time.

23. A few months later, the Church decided to look for a more affordable location to hold its Sunday meetings. It was no longer able to afford the cost of meeting at the high school.

24. From June 2006 through August 2006, the Church met at an outdoor shelterhouse at Springfield Park. As autumn arrived and the temperature dropped, the Church needed to find an indoor location to meet.

25. So Pastor Meyers again contacted Ms. Wilton and requested permission to use the Municipal Building meeting room on Sundays for approximately 2-3 hours each meeting.

26. The Village approved Pastor Meyers' request, and again set the Church's rental rate at \$25.00 per meeting.

27. At that time, Ms. Wilton also gave Pastor Meyers a copy of the Village's Municipal Building Use Policies (hereinafter referred to as the "2006 Policy"), which the Village had just put into effect that summer. A copy of the 2006 Policy is attached hereto as Exhibit 4.

28. According to the policies, the Municipal Building is available for use "on a first paid, first served basis" to any organization or individual, under the terms and conditions set forth in the policies.

29. The 2006 Policy states that the use of the Village Municipal Building "shall be provided without discrimination or bias to any person or organization regardless of sex, national origin, religion, race, color or disability pursuant to State or Federal statute."

30. Despite this admonition, the 2006 Policy imposed a fee for use of its Municipal Building based on the following three categories of potential users:

- a. Contracted Service Providers: "Contracted service providers are those groups or agencies that have entered into a contractual agreement with the Village to provide a specific public service and shall be provided use of the Village facilities when available to facilitate or in conjunction with the delivery of the agreed upon service" (hereinafter referred to as "Contracted Service Providers");
- b. Community Organizations and Service Clubs: "These shall be groups formed for the betterment of its members through service to the community as a whole; such as and including the Boy Scouts, Girl Scouts,

4-H, American Legion, Rotary, Kiwanis, Senior Center and similar service oriented organizations” (hereinafter referred to as “Community Groups”);

- c. Private parties, events and organizations: “These are gatherings or meetings held by and for a private organization, family or business for personal, professional or educational use such as professional training seminars or conferences, home schooling, for profit activities, collector’s clubs, wedding or bridal showers, anniversary, wedding or birthday parties, funeral dinners and gatherings, family or business holiday dinners or events and other similar activities” (hereinafter referred to as “Private Groups”);

31. The Village Council retains authority to determine which category a particular user falls into. This determination is “final and binding.”

32. The Village allows Contracted Service Providers and Community Groups to use the Municipal Building free of charge. Only Private Groups are charged a rental fee.

33. The Private Group rental fee varies based on whether the user is a non-profit organization. The Village charges non-profit organizations \$15.00 per month for weekly meetings, \$10.00 per month for bi-weekly meetings, and \$5.00 per month for monthly meetings. For-profit organizations and individuals must pay \$25.00 per use for a half-day meeting, and \$35.00 per use for a full-day meeting. A half-day meeting is a maximum of four hours.

34. The Village Council classified the Church as a Private Group, and required the Church to pay the for-profit rate.

35. The Church met on Sundays at the Municipal Building from September 24, 2006 through May 27, 2007.

36. Starting in September, Pastor Meyers questioned Ms. Wilton on multiple occasions why the Church had to pay the highest rental rate. He even provided Ms. Wilton proof that the Church was organized as a non-profit organization under Michigan law. Ms. Wilton's only explanation was that the Village Council "considered the Church to be a private group." During those conversations, Ms. Wilton never offered any way that the Church could avoid paying the highest rental rate.

37. Starting in June 2007, the Church again met at Springfield Park for the summer months. At that time, Pastor Meyers requested that the Village Council allow the Church to resume meeting at the Municipal Building in September. He also inquired again about whether the Church would have to continue paying the highest rental rate.

38. In July 2007, Ms. Wilton sent a letter to Pastor Meyers on behalf of the Village Council asking for a copy of the Church's "Internal Revenue Service letter" indicating its "non profit status." A copy of Ms. Wilton's letter is attached hereto as Exhibit 4.

39. Pastor Meyers responded shortly thereafter, explaining that the Church received its non-profit status from the State of Michigan – which he had already informed the Village of – and is tax-exempt by the Internal Revenue Service. A copy of Pastor Meyers' letter is attached hereto as Exhibit 5.

40. Pastor Meyers received a letter in response from the Village Council's attorney, Michael Kronk. The letter explained that the "proper fee" for the Church to pay would be "the same as any other 'nonprofit' organization such as the girl scouts, etc." The Church was not entitled to a credit or refund of any past overcharges, however, because the Village alleged that it was not previously aware of the Church's non-profit status. A copy of Mr. Kronk's letter is attached hereto as Exhibit 6.



41. Under the 2006 Policy, the Girl Scouts and other similar non-profit organizations were classified as Community Groups, and were free to rent the Municipal Building at no charge.

42. Less than two weeks after Mr. Kronk drafted his letter, however, the Village Council amended the 2006 Policy (hereinafter referred to as the "2007 Policy"). A copy of the 2007 Policy is attached hereto as Exhibit 7.

43. The 2007 Policy created a fourth category of rental organizations, called "Nonprofit or other community related entities." It defines this classification as follows: "These groups may be nonprofit, Alcoholics Anonymous, euchre clubs, churches, and similar entities or activities" (hereinafter referred to as "Non-Profit Groups"). The definitions of Contracted Service Providers, Community Groups, and Private Groups remained the same.

44. Under the 2007 Policy, Contracted Service Providers and Community Groups (including the Girl Scouts) continued to have free access to the Municipal Building. Non-Profit Groups and Private Groups had to pay a fee.

45. The 2007 Policy maintained the same fee schedule, with one exception. It increased the fee for Non-Profit Groups to hold weekly meetings at the Municipal Building from \$15.00 a month to \$20.00 a month.

46. Additionally, the 2007 Policy limited Non-Profit Group meetings to two hours or less, and required Non-Profit Groups to pay the Private Group rate for meetings lasting longer than two hours.

47. As a result of this change, the Church was forced to shorten its meetings to avoid paying the Private Group rate for its meetings.

48. The Church held weekly meetings at the Municipal Building from September 2007 through May 2008. The Church paid the Non-Profit Group rate for many of those meetings, but on multiple occasions it was required to pay the Private Group rate because its meetings exceeded two hours.

49. As in previous years, the Church decided to meet outdoors during the summer months of 2008, while planning to resume meeting at the Municipal Building in the fall. That summer, they met on a grassy area on Pastor Meyers' property.

50. When Pastor Meyers' inquired about resuming use of the Municipal Building in the fall, Ms. Wilton notified him that the Village Council had recently changed its Municipal Building Use Policies again (hereinafter referred to as the "2008 Policy"). A copy of the 2008 Policy is attached hereto as Exhibit 8.

51. The 2008 Policy is identical to the 2007 Policy in every respect except for two. The Village Council increased the rental fee for Non-Profit Groups and Private Groups to use the Municipal Building on Saturdays and Sundays. For meetings that occur on Saturdays or Sundays, Non-Profit Groups must pay \$50.00 per use between October 1 and April 30, and \$25.00 per use the rest of the year. For meetings that occur on Saturdays or Sundays, Private Groups must pay \$50.00 for a half-day meeting and \$60.00 for a full-day meeting. Additionally, the Village Council now requires a \$50.00 security deposit prior to use of the facilities.

52. The Church cannot afford to pay the increased rental rate for Non-Profit Groups, and therefore had to stop meeting at the Municipal Building.

53. In a letter dated January 31, 2009, Pastor Meyers again requested to rent the Municipal Building for the Church's Sunday meetings. He specifically asked that the Church be

treated as a Community Group, and included the required security deposit in his request. A copy of Pastor Meyers' letter is attached hereto as Exhibit 9.

54. Noreen Broering, the President of the Village Council, denied Pastor Meyers' request and reiterated that the Church would have to pay \$50.00 per use of the building on Sundays between October 1 and April 30, referencing the 2008 Policy. A copy of Ms. Broering's letter is attached hereto as Exhibit 10.

55. The 2008 Policy is still in effect and has not been amended or revoked.

56. Presently, the Village maintains office hours at the Municipal Building on Mondays from 2:00 P.M. until 6:00 P.M., and from 9:00 A.M. until 12:00 P.M. on Wednesdays and Fridays.

57. The Church desires to continue meeting on a weekly basis at the Municipal Building, but is unable to do so because it cannot afford the Non-Profit Group rate.

58. Since August 2008, the Church has been unable to find another location in the area that would be suitable year-round for conducting its meetings.

#### **LEGAL ALLEGATIONS**

59. All alleged acts of the Village Council, its officers, agents, servants, employees, and persons acting at its behest, were done and continue to be done under the color and pretense of state law.

60. As alleged in greater detail below, the Village's Municipal Building Use Policies, both on their face and as applied to the Church, violate the Church's constitutional rights.

61. As a direct result of the Village Council's violation of its constitutional rights, as alleged below, the Church is suffering irreparable harm for which there is no adequate remedy at law.

## CLAIMS FOR RELIEF

### **I. First Claim: Violation of the Free Speech Clause of the First Amendment to the United States Constitution.**

62. The allegations contained in each preceding paragraph are incorporated herein by reference.

63. The Village Council has intentionally made its Municipal Building generally available to the public for a broad range of private expression.

64. Religious speech, including the speech that occurs at the Church's meetings, is fully protected by the First Amendment.

65. The Municipal Building Use Policies and the Village Council's enforcement thereof:

- a. Single out religious speech for discriminatory and unfavorable treatment;
- b. Condition access to a generally available public facility based on the content and viewpoint of the applicant's speech;
- c. Restrain constitutionally-protected speech in advance of its expression;
- d. Chill the Church's speech and other individuals and organizations subject to the Municipal Building Use Policies;
- e. Were specifically targeted to burden the Church's religious expression.

66. The Village Council has no compelling reason that would justify its requirement that the Church and other religious speakers pay a higher fee for access to a generally available public facility solely on the basis of the Church's religious nature, speech, and conduct.

67. Accordingly, the Village's Municipal Building Use Policies and their enforcement against the Church, violate its right to the freedom of speech guaranteed by the First Amendment to the United States Constitution, as applicable to the states under the Fourteenth Amendment.

**II. Second Claim: Violation of the Free Exercise Clause of the First Amendment to the United States Constitution.**

68. The allegations contained in each preceding paragraph are incorporated herein by reference.

69. The Church desires to gather with other Christians to engage in religious expression and activity that is motivated by their sincerely-held religious beliefs.

70. The Village's Municipal Building Use Policies are neither facially neutral nor generally applicable with respect to religion.

71. The Policies selectively burden the Church's religious exercise by restricting its access to a generally available public facility based solely on the religious nature of its speech and conduct.

72. The Policies and the Village Council's enforcement thereof were specifically targeted to burden the Church's religious expression and religious exercise.

73. The Village Council has no compelling reason that justifies denying the Church, or any other applicant, equal access to a generally available public forum solely because of the religious nature of its speech and conduct.

74. Accordingly, the Village's Municipal Building Use Policies and their enforcement against the Church violate its right to the free exercise of religion guaranteed by the First Amendment to the United States Constitution, as applicable to the states under the Fourteenth Amendment.

**III. Third Claim: Violation of the Establishment Clause of the First Amendment to the United States Constitution.**

75. The allegations contained in the preceding paragraphs are incorporated herein by reference.

76. The Policies and the Village Council's enforcement thereof are hostile toward religion and favors irreligion over religion.

77. The Policies and the Village Council's enforcement thereof treat the Church and its members as second-class citizens of the community because of their protected religious expression, beliefs, and conduct.

78. The Policies and the Village Council's enforcement thereof were specifically targeted to burden the Church's religious expression and religious exercise.

79. The Village Council's denial of equal access to an important government benefit in the form of access to a public forum conveys a governmental message that the Church is an outsider and not a full member of the community.

80. The Municipal Building Use Policies require that Village officials scrutinize private speech and conduct to determine whether it is done for religious purposes, thus impermissibly entangling government with religion.

81. The Village Council has no compelling interest that justifies its hostility toward religion, or that justifies its excessive entanglement with religion.

82. Accordingly, the Village's Municipal Building Use Policies and their enforcement against the Church violate the Establishment Clause of the First Amendment to the United States Constitution, as applicable to the states under the Fourteenth Amendment.

**IV. Fourth Claim: Violation of the Due Process Clause of the Fourteenth Amendment to the United States Constitution.**

83. The allegations contained in the preceding paragraphs are incorporated herein by reference.

84. The Municipal Building Use Policies are vague and lack sufficient objective standards to cabin the discretion of Village officials, which allow the Policies to be enforced in an *ad hoc* and discriminatory manner.

85. The Village Council has no compelling reason that would justify its requirement that the Church pay a discriminatory fee for access to generally available public facilities solely on the basis of the Church's religious character, speech, or conduct.

86. The Policies and the Village Council's enforcement against the Church therefore violate the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

**V. Fifth Claim: Violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.**

87. The allegations contained in the preceding paragraphs are incorporated herein by reference.

88. The Equal Protection Clause requires the government to treat similarly-situated persons equally.

89. Under its Municipal Building Use Policies, the Village Council gives similarly-situated organizations free access to the forum, but continues to charge the Church for the same access solely because of the Church's religious nature, speech, and conduct.

90. The Village Council has no compelling reason that would justify its requirement that the Church pay a discriminatory fee for access to generally available public facilities solely on the basis of the Church's religious character, speech, or conduct.

91. Accordingly, the Village's Municipal Building Use Policies and the Village Council's enforcement against the Church violate the Church's right to the equal protection of the laws guaranteed by the Fourteenth Amendment to the United States Constitution.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for judgment against Defendant and respectfully request the following relief:

A. Preliminarily and permanently enjoin the Village Council and its agents, servants, employees, officials, and any other person acting on its behalf, from enforcing its 2008 Municipal Building Use Policy to the extent that it violates the Church's constitutional rights;

B. Declare that the 2006, 2007, and 2008 Municipal Building Use Policies are facially unconstitutional and violate the First and Fourteenth Amendments to the United States Constitution;

C. Declare that the 2006, 2007, and 2008 Municipal Building Use Policies are unconstitutional as applied to Plaintiffs, violating their rights guaranteed by the First and Fourteenth Amendments to the United States Constitution;

D. Award actual and nominal damages to Plaintiffs against the Defendant;

E. Award the costs and expenses of this action to Plaintiffs, including reasonable attorneys' fees, in accordance with 42 U.S.C. § 1988 and other applicable law;

F. Grant any other relief that the Court deems equitable, just, and proper;

G. Adjudge, decree, and declare the rights and other legal relations of the parties to the subject matter here in controversy, in order that such determination shall have the force and effect of final judgment; and

H. Retain jurisdiction of this matter as necessary to enforce the Court's orders.

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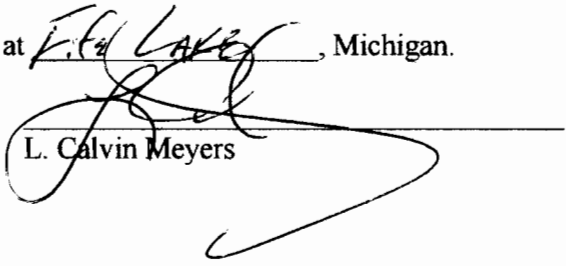
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*Attorneys for Plaintiff*

**VERIFICATION OF COMPLAINT**

I, L. Calvin Meyers, a citizen of the United States and resident of the State of Michigan, hereby declare under penalty of perjury pursuant to 28 U.S.C. §1746 that I have read the foregoing Verified Complaint and the factual allegations therein, and the facts as alleged are true and correct.

Executed this 19<sup>th</sup> day of March, 2009, at F. F. Lake, Michigan.

  
L. Calvin Meyers