

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:18-cv-02867-MSK-NYW

FORT COLLINS MENNONITE FELLOWSHIP, a Colorado nonprofit corporation, and
STEVE RAMER,

Plaintiffs,

v.

THE CITY OF FORT COLLINS, a home rule municipality,
THE CITY OF FORT COLLINS CITY COUNCIL, and
LAURIE DAVIS,
ROBERT DAVIS,
MARY RAY,
H. STUART MACMILLAN,
HOLLY JOHNSON,
LAURA PETRICK,
DAVE PETRICK,
KATHERINE ACOTT,
WALTER HICKMAN,
PATRICIA DIEHL,
LISA EATON,
FERAH AZIZ,
TARA MCCORMAC,
JENNIFER PETRIK,
PAMELA REJVEM,
MICHAEL MERCER,
DENNIS BOOKSTABER,
BELL GOULD LINDER & SCOTT, P.C.
TOM HALL, and
STEVE ACKERMAN, in their individual capacities.

Defendants.

**STIPULATION OF DEFENDANTS LAURIE DAVIS, ROBERT DAVIS, MARY RAY,
LAURA PETRICK, DAVID PETRICK, TRICIA DIEHL, JENNIFER PETRIK, AND
PAMELA REJVEM TO BE BOUND BY JUDGMENT ON PLAINTIFFS' CLAIM
UNDER COLO. R. CIV. P. RULE 106(A)(4)**

Plaintiffs Fort Collins Mennonite Fellowship, a Colorado nonprofit corporation (the
“**Fellowship**”), and Steve Ramer (“**Ramer**” and collectively with the Fellowship, “**Plaintiffs**”),

by and through their undersigned counsel, and Defendants Laurie Davis, Robert Davis, Mary Ray, Laura Petrick, David Petrick, Tricia Diehl,¹ Jennifer Petrik, and Pamela Refvem (“**Defendants**”), hereby submit this Stipulation of Defendants to be Bound by this Court’s Judgment on Plaintiffs’ Claim Under C.R.C.P. Rule 106(a)(4) (this “**Stipulation**”), as follows:

1. Plaintiffs filed their Complaint and Request for Declaratory Judgment and Injunctive Relief in this case on November 6, 2018 (the “**Complaint**”). Plaintiffs filed their First Amended Complaint and Request for Declaratory Judgment and Injunctive Relief on February 1, 2019 (the “**Amended Complaint**”). The Amended Complaint seeks, among other things, certiorari review pursuant to Colo. R. Civ. P. Rule 106(a)(4) (“**Rule 106(a)(4)**”).

2. Defendants are individuals who own real property located in the vicinity of the Fellowship’s property at issue in this case.

3. Following the Fort Collins Planning and Zoning Board’s (the “**PZB**”) approval of the Fellowship’s Minor Amendment Application at issue in this case, Defendants joined in an Appeal of that approval (the “**Appeal**”) to the Fort Collins City Council (“**City Council**”).

4. City Council conducted a public hearing considering the Appeal on October 9, 2018. Defendants each appeared in person at the October 9, 2018 City Council hearing in support of the Appeal, and were deemed by City Council to be “parties-in-interest” for the Appeal.

5. An applicant for a land use decision, the issuance of which is challenged under Rule 106(a)(4), is an indispensable party to such an action. *See Bd. of Cnty. Comm’rs v. Carter*, 564 P.2d 421, 422 (Colo. 1977).

¹ Defendant Tricia Diehl is misnamed in the original Complaint and First Amended Complaint as “Patricia Diehl” due to a lack of information available to Plaintiffs when they filed both documents. However, Tricia Diehl acknowledges that she is the proper party joined in this action and signs this stipulation under her proper legal name.

6. Because Defendants joined in the Appeal, appeared before City Council on October 9, 2018, and were deemed to be “parties-in-interest” by City Council, the Fellowship joined Defendants as indispensable parties in its Second Claim for Relief under Rule 106(a)(4).

7. Defendants are not parties to any other claims in this action.

8. Defendants understand that the City of Fort Collins and City Council are defending against Plaintiffs’ 106(a)(4) claim, and Defendants do not wish to actively participate in this action. Defendants agree to be bound by any decision made by this Court related to that claim.

9. Plaintiffs acknowledge and agree that their Second Claim for Relief under Rule 106(a)(4) does not entitle Plaintiffs to seek any monetary damages against Defendants, including pecuniary damages or attorneys’ fees, or costs.

10. Plaintiffs acknowledge and agree that this Stipulation, and any similar stipulation entered into by other defendants, does not affect, hinder, or limit: (a) any party’s ability, including Defendants, to appear and speak at any public hearing before City Council; or (b) Defendants’ ability or right to participate at any public hearing before City Council as may be afforded by the Municipal Code of the City of Fort Collins, or other applicable authority, based upon Defendants’ status as parties-in-interest for the Appeal and/or parties to Plaintiffs’ Second Claim for Relief in this action.

WHEREFORE, Plaintiffs and Defendants respectfully request that this Court enter an Order making this Stipulation an Order of the Court.

Respectfully submitted this 15th day of February , 2019.

/s/ David A. Brewster

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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of February, 2019, a true and correct copy of the foregoing **STIPULATION OF DEFENDANTS LAURIE DAVIS, ROBERT DAVIS, MARY RAY, LAURA PETRICK, DAVID PETRICK, TRICIA DIEHL, JENNIFER PETRIK, AND PAMELA REFVEM TO BE BOUND BY JUDGMENT ON PLAINTIFFS' CLAIM UNDER COLO. R. CIV. P. RULE 106(A)(4)** was electronically filed with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following email addresses:

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/s/ Margo Brown

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