

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

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

FORT COLLINS MENNONITE FELLOWSHIP, and
STEVE RAMER,

Plaintiffs,

v.

THE CITY OF FORT COLLINS, a home rule municipality, et. al.

Defendants.

**ANSWER TO PLAINTIFFS' FIRST AMENDED COMPLAINT AND REQUEST FOR
DECLARATORY AND INJUNCTIVE RELIEF FROM DEFENDANTS THE CITY OF
FORT COLLINS AND THE FORT COLLINS CITY COUNCIL**

Defendants the City of Fort Collins and the City of Fort Collins City Council, by and through their counsel, Andrew D. Ringel, Esq., of Hall & Evans, L.L.C., hereby respectfully submit this Answer to Plaintiffs' First Amended Complaint and Request for Declaratory and Injunctive Relief, as follows:

NATURE OF THE CASE

1. Defendants the City of Fort Collins and the City of Fort Collins City Council ("Defendants") admit Plaintiffs Fort Collins Mennonite Fellowship and Steve Ramer ("Plaintiffs") applied for and received the approval of the City Council to operate a locker program on Plaintiff Fort Collins Mennonite Fellowship's ("Fellowship") property to assist homeless persons. Defendants admit the Planning and Zoning Board initially approved

the locker program. Defendants affirmatively state the approval by the Planning and Zoning Board in its entirety speaks for itself. Defendants deny all allegations in paragraph 1 of Plaintiffs' First Amended Complaint and Request for Declaratory and Injunctive Relief ("Plaintiffs' First Amended Complaint") inconsistent therewith. Defendants admit an appeal of the Planning and Zoning Board's decision was initiated. Defendants affirmatively state the appeal of the Planning and Zoning Board's decision in its entirety speaks for itself. Defendants deny all allegations in paragraph 1 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants admit the City Council considered the appeal. Defendants admit the City Council imposed reasonable and appropriate conditions on the locker program that did not violate the Plaintiffs' statutory or common law rights under either federal or Colorado law. Defendants deny the remaining allegations in paragraph 1 of Plaintiffs' First Amended Complaint.

2. Defendants admit Plaintiffs attempt claims against the Defendants pursuant to the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 1983, the Colorado Constitution, Colorado Rule of Civil Procedure 57, and Colorado Rule of Civil Procedure 106(a)(4). Defendants deny Plaintiffs state any cognizable claim upon which relief may be granted against the Defendants. Defendants deny Plaintiffs are entitled to any of the relief sought in the Plaintiffs' First Amended Complaint. Defendants deny the remaining allegations in paragraph 2 of Plaintiffs' First Amended Complaint.

PARTIES AND PROPERTY

3. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegation the Fellowship is a Colorado nonprofit corporation and therefore deny same. Defendants state whether the Fellowship is a “religious assembly or institution” within the meaning of the Religious Land Use and Institutionalized Persons Act (“RLUIPA”) presents a question of law not requiring a response from the Defendants. To any extent a response is deemed required, the allegation is denied. Defendants deny the remaining allegations in paragraph 3 of Plaintiffs’ First Amended Complaint.

4. Defendants admit upon information and belief Plaintiff Steve Ramer is the Pastor of the Fellowship.

5. Defendants admit the Fellowship owns property located at 300 East Oak Street in the City of Fort Collins. Defendants admit the Plaintiffs applied for the ability to operate a locker program for homeless persons on the Fellowship’s property. Defendants deny the remaining allegations in paragraph 5 of Plaintiffs’ First Amended Complaint.

6. Defendants admit the City of Fort Collins is a home rule municipality under Colorado law. Defendants state whether the City qualifies as a “government” within the meaning of RLUIPA or a “person acting under color of state law” within the meaning of 42 U.S.C. § 1983 present questions of law not requiring responses from the Defendants. To any extent responses are deemed required, the allegations are denied.

Defendants deny the remaining allegations in paragraph 6 of Plaintiffs' First Amended Complaint.

7. Defendants admit the City Council of the City of Fort Collins is the governing body of the City of Fort Collins pursuant to the Charter of the City of Fort Collins and applicable Colorado law. Defendants state whether the City Council qualifies as a "government" within the meaning of RLUIPA or a "person acting under color of state law" within the meaning of 42 U.S.C. § 1983 present questions of law not requiring responses from the Defendants. To any extent responses are deemed required, the allegations are denied. Defendants admit the City Council is authorized to consider appeals of decisions of the Planning and Zoning Board. Defendants deny the remaining allegations in paragraph 7 of Plaintiffs' First Amended Complaint.

8. Defendants affirmatively state the appeal of the Planning and Zoning Board's decision in its entirety speaks for itself. Defendants deny all allegations in paragraph 8 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants deny the remaining allegations in paragraph 8 of Plaintiffs' First Amended Complaint.

JURISDICTION AND VENUE

9-10. Defendants admit this Court possesses subject matter jurisdiction over the Plaintiffs' claims pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1367. Defendants deny the remaining allegations in paragraphs 9-10 of Plaintiffs' First Amended Complaint.

11. Defendants admit venue is appropriate in this District pursuant to 28 U.S.C. § 1391. Defendants deny all the remaining allegations in paragraph 11 of Plaintiffs' First Amended Complaint.

GENERAL ALLEGATIONS

The Fellowship's Religious Practice

Defendants note Defendants utilize the above heading because it is used by the Plaintiffs in the Plaintiffs' First Amended Complaint and do not necessarily agree with or adopt this heading or characterization made by the Plaintiffs.

12-23. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraphs 12-23 of Plaintiffs' First Amended Complaint and therefore deny same.

The City's Past Treatment of People Experiencing Homelessness and the Pilot Locker Program

Defendants note Defendants utilize the above heading because it is used by the Plaintiffs in the Plaintiffs' First Amended Complaint and do not necessarily agree with or adopt this heading or characterization made by the Plaintiffs.

24. Defendants state the Appropriate Use of Public Facilities Ordinance adopted by the City Council in its entirety speaks for itself. Defendants deny all allegations in paragraph 24 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants deny all remaining allegations in paragraph 24 of Plaintiffs' First Amended Complaint.

25. Defendants admit there was public debate and discussion regarding the Appropriate Use of Public Facilities Ordinance adopted by the City Council. Defendants deny all remaining allegations in paragraph 25 of Plaintiffs' First Amended Complaint.

26-28. Defendants admit a Service Agreement was entered into on September 29, 2017. Defendants state the Service Agreement in its entirety speaks for itself.

Defendants deny the allegations in paragraphs 26-28 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants deny all remaining allegations in paragraphs 26-28 of Plaintiffs' First Amended Complaint.

29. Defendants admit the City Council determined not to authorize the use of City funds for the Service Agreement. Defendants deny the remaining allegations in paragraph 29 of Plaintiffs' First Amended Complaint.

The Fellowship Proceeds With the Locker Program

Defendants note Defendants utilize the above heading because it is used by the Plaintiffs in the Plaintiffs' First Amended Complaint and do not necessarily agree with or adopt this heading or characterization made by the Plaintiffs.

30. Defendants admit City staff discussed the program for lockers for homeless persons with representatives of the Fellowship. Defendants affirmatively state City staff provided information to representatives of the Fellowship concerning how the program for lockers for homeless persons could be approved by the City if it complied with applicable City zoning regulations. Defendants deny the remaining allegations in paragraph 30 of Plaintiffs' First Amended Complaint.

31-33. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraphs 31-33 of the Plaintiffs' First Amended Complaint and therefore deny same.

34. Defendants state the April 18, 2018, letter from the City's Planning, Development and Transportation Department to the Fellowship in its entirety speaks for itself. Defendants deny the allegations in paragraph 34 of Plaintiffs' First Amended

Complaint inconsistent therewith. Defendants state the Minor Amendment process provided by the City's Land Use Code, § 2.2.10 applied to the lockers installed on the Fellowship's property. Defendants deny the remaining allegations in paragraph 34 of Plaintiffs' First Amended Complaint.

35. Defendants admit the Fellowship submitted a Minor Amendment application to the City. Defendants state the Minor Amendment application in its entirety speaks for itself. Defendants deny the allegations in paragraph 35 of the Plaintiffs' First Amended Complaint inconsistent therewith. Defendants deny the remaining allegations in paragraph 35 of Plaintiffs' First Amended Complaint.

36. Defendants deny the allegations in paragraph 36 of Plaintiffs' First Amended Complaint.

37. Defendants deny the allegations in the first two sentences of paragraph 37 of Plaintiffs' First Amended Complaint. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations in the third sentence of paragraph 37 of Plaintiffs' First Amended Complaint and therefore deny same.

The City's Inconsistent Application of the Minor Amendment Process

Defendants note Defendants utilize the above heading because it is used by the Plaintiffs in the Plaintiffs' First Amended Complaint and do not necessarily agree with or adopt this heading or characterization made by the Plaintiffs. Defendants specifically deny the City has inconsistently applied the Minor Amendment process to the Plaintiffs or otherwise.

38. Defendants admit the City's Land Use Code contains zoning regulations. Defendants state the entirety of the City's Land Use Code whether attached to the Plaintiffs' First Amended Complaint as Exhibit 3 or not in its entirety speaks for itself. Defendants deny the allegations in paragraph 38 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants deny the remaining allegations in paragraph 38 of Plaintiffs' First Amended Complaint.

39-47. Defendants admit the City's Land Use Code contains provisions governing a Minor Amendment process. Defendants state the entirety of the City's Land Use Code applicable to the Minor Amendment process, whether provided in § 2.2.10 or otherwise, in its entirety speaks for itself. Defendants deny the allegations in paragraphs 39-47 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants deny the remaining allegations in paragraphs 39-47 of Plaintiffs' First Amended Complaint.

48. Defendants deny the allegations in paragraph 48 of Plaintiffs' First Amended Complaint.

49. Defendants state Exhibit 4 in its entirety speaks for itself. Defendants deny the allegations in paragraph 49 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants deny the remaining allegations in paragraph 49 of Plaintiffs' First Amended Complaint.

50. Defendants deny the allegations in the first sentence of paragraph 50 of Plaintiffs' First Amended Complaint. Defendants are without sufficient knowledge and information to form a belief as to the truth of the allegations in the second sentence of

paragraph 50 of Plaintiffs' First Amended Complaint and therefore deny same. Defendants deny the remaining allegations in paragraph 50 of Plaintiffs' First Amended Complaint.

51. Defendants admit a Minor Amendment application referred to the Planning and Zoning Board requires notice and a public hearing under the City's Land Use Code. Defendants deny the remaining allegations in paragraph 51 of Plaintiffs' First Amended Complaint.

52. Defendants state any letter from City Attorney Carrie Daggett dated July 9, 2018, in its entirety speaks for itself. Defendants deny the allegations in paragraph 52 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants deny the remaining allegations in paragraph 52 of Plaintiffs' First Amended Complaint.

53. Defendants state the information on the City's website in its entirety speaks for itself. Defendants deny the allegations in paragraph 53 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants deny the remaining allegations in paragraph 53 of Plaintiffs' First Amended Complaint.

54. Defendants admit some Minor Amendment applications are approved administratively and some Minor Amendment applications are approved through review and approval by the Planning and Zoning Board subject to the review of the City Council. Defendants deny the remaining allegations in paragraph 54 of Plaintiffs' First Amended Complaint.

**The City Improperly and In a Discriminatory Manner Applied
the Minor Amendment Process to the Fellowship**

Defendants note Defendants utilize the above heading because it is used by the Plaintiffs in the Plaintiffs' First Amended Complaint and do not necessarily agree with or adopt this heading or characterization made by the Plaintiffs. Defendants specifically deny the City has improperly and in a discriminatory manner applied the minor amendment process to the Plaintiffs or otherwise.

55-59. Defendants deny the allegations in paragraphs 55-59 of Plaintiffs' First Amended Complaint either directly or because the allegations attempt to apply current Land Use Code terminology to land use and zoning decisions upon information and belief occurring long before the adoption of the current Land Use Code.

60-61. Defendants state any email dated May 31, 2018, from City Attorney Daggett in its entirety speaks for itself. Defendants deny the allegations in paragraphs 60-61 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants specifically deny the May 31, 2018, email from City Attorney Daggett constitutes admissible evidence appropriate for consideration by the Court. Defendants deny the remaining allegations in paragraphs 60-61 of Plaintiffs' First Amended Complaint.

62. Defendants state the statements made at the Planning and Zoning Board work session on July 13, 2018, in their entirety by City staff speak for themselves. Defendants deny the allegations in paragraph 62 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants deny the remaining allegations in paragraph 62 of Plaintiffs' First Amended Complaint.

63. Defendants deny the allegations in paragraph 63 of Plaintiffs' First Amended Complaint.

64. Defendants admit the City reviewed the Fellowship's application under the Minor Amendment process. Defendants deny the remaining allegations in paragraph 64 of Plaintiffs' First Amended Complaint.

65. Defendants admit the Director of the Planning and Zoning Department referred the Fellowship's application for a Minor Amendment to the Planning and Zoning Board for its consideration. Defendants admit the public hearing before the Planning and Zoning Board was initially scheduled for May 31, 2018. Defendants deny the remaining allegations in paragraph 65 of Plaintiffs' First Amended Complaint.

66. Defendants state the City staff report prepared in advance of the scheduled May 31, 2018, Planning and Zoning Board meeting to the Board in its entirety speaks for itself. Defendants deny the allegations in paragraph 66 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants deny the remaining allegations in paragraph 66 of Plaintiffs' First Amended Complaint.

67. Defendants admit during the staff review process of the Fellowship's Minor Amendment application there was discussion with Plaintiff Ramer of an apparent willingness to install a security camera and lighting as part of the locker program for homeless persons. Defendants deny the remaining allegations in paragraph 67 of Plaintiffs' First Amended Complaint.

68. Defendants state the City staff report prepared in advance of the scheduled May 31, 2018, Planning and Zoning Board meeting to the Board in its

entirety speaks for itself. Defendants deny the allegations in paragraph 68 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants deny the remaining allegations in paragraph 68 of Plaintiffs' First Amended Complaint.

69. Defendants admit the City's Land Use Code contains provisions governing a Minor Amendment process. Defendants state the entirety of the City's Land Use Code applicable to the Minor Amendment process, whether provided in § 2.2.10 or otherwise, in its entirety speaks for itself. Defendants deny the allegations in paragraph 69 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants deny the remaining allegations in paragraph 69 of Plaintiffs' First Amended Complaint.

70. Defendants state any email from Deputy City Manager Jeff Mihelich to Plaintiff Ramer dated May 30, 2018, in its entirety speaks for itself. Defendants deny the allegations in paragraph 70 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants admit the May 31, 2018, hearing before the Planning and Zoning Board was rescheduled. Defendants deny the remaining allegations in paragraph 70 of Plaintiffs' First Amended Complaint.

71. Defendants deny Deputy City Manager Mihelich reviewed the Fellowship's Minor Amendment application or any other Minor Amendment application as a decisionmaker under the City's Land Use Code. Any review by Deputy City Manager Mihelich of documents associated with the Minor Amendment application was within his authority as Deputy City Manager. Defendants admit the City's Land Use Code contains provisions governing a Minor Amendment process. Defendants state the entirety of the City's Land Use Code applicable to the Minor Amendment process,

whether provided in § 2.2.10 or otherwise, in its entirety speaks for itself. Defendants deny the allegations in paragraph 71 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants deny the remaining allegations in paragraph 71 of Plaintiffs' First Amended Complaint.

72-73. Defendants state the City staff report prepared in advance of the July 19, 2018, Planning and Zoning Board meeting to the Board in its entirety speaks for itself. Defendants deny the allegations in paragraphs 72-73 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants deny the remaining allegations in paragraphs 72-73 of Plaintiffs' First Amended Complaint.

74. Defendants admit the Planning and Zoning Board considered the Fellowship's Minor Amendment application at a public hearing held on July 19, 2018. Defendants state the entire record of the July 19, 2018, Planning and Zoning Board proceedings in its entirety speaks for itself. Defendants deny the allegations in paragraph 74 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants admit Plaintiff Ramer and other representatives of the Fellowship spoke at the Planning and Zoning Board hearing in support of the Minor Amendment application. Defendants deny the remaining allegations in paragraph 74 of Plaintiffs' First Amended Complaint.

75. Defendants admit the Planning and Zoning Board considered the Fellowship's Minor Amendment application at a public hearing held on July 19, 2018. Defendants state the entire record of the July 19, 2018, Planning and Zoning Board proceedings in its entirety speaks for itself. Defendants deny the allegations in paragraph 75 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants

admit several neighbors of the Fellowship's property spoke at the Planning and Zoning Board hearing in opposition to the Minor Amendment application. Defendants deny the remaining allegations in paragraph 75 of Plaintiffs' First Amended Complaint.

76. Defendants admit the Planning and Zoning Board considered the Fellowship's Minor Amendment application at a public hearing held on July 19, 2018. Defendants state the entire record of the July 19, 2018, Planning and Zoning Board proceedings in its entirety speaks for itself. Defendants deny the allegations in paragraph 76 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants admit the Planning and Zoning Board approved the Minor Amendment application with conditions. Defendants state the approval of the Minor Amendment application by the Planning and Zoning Board in its entirety speaks for itself. Defendants deny the allegations in paragraph 76 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants deny the remaining allegations in paragraph 76 of Plaintiffs' First Amended Complaint.

77. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 77 of Plaintiffs' First Amended Complaint and therefore deny same.

Neighbors Appeal the PZB's Approval

Defendants note Defendants utilize the above heading because it is used by the Plaintiffs in the Plaintiffs' First Amended Complaint and do not necessarily agree with or adopt this heading or characterization made by the Plaintiffs.

78. Defendants admit a Notice of Appeal was filed on August 2, 2018, of the Planning and Zoning Board's approval of the Minor Amendment application. Defendants state the Notice of Appeal in its entirety speaks for itself. Defendants deny the allegations in paragraph 78 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants deny the remaining allegations in paragraph 78 of Plaintiffs' First Amended Complaint.

79. Defendants admit a public hearing was held before the City Council on the appeal of the Planning and Zoning Board's approval of the Minor Amendment application on October 9, 2018. Defendants state the record of the proceedings before the City Council in its entirety speaks for itself. Defendants deny the allegations in paragraph 79 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants deny the remaining allegations in paragraph 79 of Plaintiffs' First Amended Complaint.

80-81. Defendants admit the City's Land Use Code contains provisions governing appeals of Planning and Zoning Board decisions. Defendants state the entirety of the City's Land Use Code applicable to appeals of Planning and Zoning Board decisions, whether provided in § 2-46 and § 2-48 or otherwise, in its entirety speaks for itself. Defendants deny the allegations in paragraphs 80-81 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants deny the remaining allegations in paragraphs 80-81 of Plaintiffs' First Amended Complaint.

82. Defendants admit a public hearing was held before the City Council on the appeal of the Planning and Zoning Board's approval of the Minor Amendment application on October 9, 2018. Defendants state the record of the proceedings before

the City Council in its entirety speaks for itself. Defendants deny the allegations in paragraph 82 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants admit upon information and belief some of the named individual defendants appeared and identified themselves as "parties-in-interest" at the hearing before City Council. Defendants deny the remaining allegations in paragraph 82 of Plaintiffs' First Amended Complaint.

83. Defendants admit a public hearing was held before the City Council on the appeal of the Planning and Zoning Board's approval of the Minor Amendment application on October 9, 2018. Defendants state the record of the proceedings before the City Council in its entirety speaks for itself. Defendants deny the allegations in paragraph 83 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants state any statement by Mayor Wade Troxell during the hearing in its entirety speaks for itself. Defendants deny the allegations in paragraph 83 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants deny the remaining allegations in paragraph 83 of Plaintiffs' First Amended Complaint.

84. Defendants deny the allegations in paragraph 84 of Plaintiffs' First Amended Complaint.

85. Defendants admit a public hearing was held before the City Council on the appeal of the Planning and Zoning Board's approval of the Minor Amendment application on October 9, 2018. Defendants state the record of the proceedings before the City Council in its entirety speaks for itself. Defendants deny the allegations in paragraph 85 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants

admit various individuals provided statements to the City Council during the October 9, 2018, hearing including City staff, counsel, Plaintiff Ramer, and counsel for the Fellowship. Defendants deny the remaining allegations in paragraph 85 of Plaintiffs' First Amended Complaint.

86. Defendants admit a public hearing was held before the City Council on the appeal of the Planning and Zoning Board's approval of the Minor Amendment application on October 9, 2018. Defendants state the record of the proceedings before the City Council in its entirety speaks for itself. Defendants deny the allegations in paragraph 86 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants state any question by Councilor Ray Martinez and any response to such a question by counsel for the Fellowship during the hearing in their entirety speak for themselves. Defendants deny the allegations in paragraph 86 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants deny the remaining allegations in paragraph 86 of Plaintiffs' First Amended Complaint.

87. Defendants admit a public hearing was held before the City Council on the appeal of the Planning and Zoning Board's approval of the Minor Amendment application on October 9, 2018. Defendants state the record of the proceedings before the City Council in its entirety speaks for itself. Defendants deny the allegations in paragraph 87 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants state any question by Councilor Martinez and any response to such a question by Plaintiff Ramer during the hearing in their entirety speak for themselves. Defendants deny the allegations in paragraph 87 of Plaintiffs' First Amended Complaint inconsistent

therewith. Defendants deny the remaining allegations in paragraph 87 of Plaintiffs' First Amended Complaint.

88. Defendants admit a public hearing was held before the City Council on the appeal of the Planning and Zoning Board's approval of the Minor Amendment application on October 9, 2018. Defendants state the record of the proceedings before the City Council in its entirety speaks for itself. Defendants deny the allegations in paragraph 88 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants state any statement by Mayor Pro Tem Gerry Horak during the hearing in its entirety speaks for itself. Defendants deny the allegations in paragraph 88 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants deny the remaining allegations in paragraph 88 of Plaintiffs' First Amended Complaint.

89. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 89 of Plaintiffs' First Amended Complaint and therefore deny same.

90. Defendants admit the City Council approved the Minor Amendment application with conditions. Defendants state Resolution 2018-104 in its entirety speaks for itself. Defendants deny the allegations in paragraph 90 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants deny the remaining allegations in paragraph 90 of Plaintiffs' First Amended Complaint.

91. Defendants admit the City Council's approval of the Minor Amendment application with conditions was a quasi-judicial decision by the City Council.

Defendants deny the remaining allegations in paragraph 91 of Plaintiffs' First Amended Complaint.

The Conditions of Approval are Discriminatory

Defendants note Defendants utilize the above heading because it is used by the Plaintiffs in the Plaintiffs' First Amended Complaint and do not necessarily agree with or adopt this heading or characterization made by the Plaintiffs. Defendants deny the conditions on approval of the Minor Amendment application by the City Council are discriminatory.

92-97. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraphs 92-97 of Plaintiffs' First Amended Complaint and therefore deny same.

Locker Program Shut Down

Defendants note Defendants utilize the above heading because it is used by the Plaintiffs in the Plaintiffs' First Amended Complaint and do not necessarily agree with or adopt this heading or characterization made by the Plaintiffs.

98-105. Defendants state the City Council Resolution 2018-104 speaks for itself. Defendants deny the allegations in paragraphs 98-105 inconsistent therewith. Defendants deny the remaining allegations in paragraphs 98-105 of Plaintiffs' First Amended Complaint.

106-107. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations in paragraphs 106-107 and therefore deny same.

108. Defendants state the City Council Resolution 2018-104 speaks for itself. Defendants deny the allegations in paragraphs 108 inconsistent therewith. Defendants deny the remaining allegations in paragraphs 108 of Plaintiffs' First Amended Complaint.

109-111. Defendants state any November 7, 2018, notice purportedly provided pursuant to the Colorado Regulatory Impairment of Property Rights Act, C.R.S. §§ 29-20-201 *et seq.* by the Plaintiffs to the City in its entirety speaks for itself. Defendants deny the allegations in paragraphs 109-111 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants state the entirety of C.R.S. § 29-20-203(2) and all other relevant statutory provisions of Colorado law in their entirety speak for themselves. Defendants deny the allegations in paragraphs 109-111 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants deny the remaining allegations in paragraphs 109-111 of Plaintiffs' First Amended Complaint.

FIRST CLAIM FOR RELIEF

(Declaratory Judgment, C.R.C.P Rule 57—Against City Defendants)

112. Defendants incorporate herein by reference all their responses to the allegations in paragraphs 1-111 above as their response to the allegations in paragraph 112 as if fully set forth herein.

113-118. Defendants deny the allegations in paragraphs 113-118 of Plaintiffs' First Amended Complaint.

SECOND CLAIM FOR RELIEF

(Abuse of Discretion and Exceeding Jurisdiction,
Colo. R. Civ. P. 106(a)(4)—Against All Defendants)

119. Defendants incorporate herein by reference all their responses to the allegations in paragraphs 1-118 above as their response to the allegations in paragraph 119 as if fully set forth herein.

120. Defendants admit the Planning and Zoning Board acted in a quasi-judicial capacity in considering the Minor Amendment application. Defendants deny the remaining allegations in paragraph 120 of Plaintiffs' First Amended Complaint.

121. Defendants admit the City Council acted in a quasi-judicial capacity in considering the appeal of the approval of the Minor Amendment application by the Planning and Zoning Board. Defendants deny the remaining allegations in paragraph 121 of Plaintiffs' First Amended Complaint.

122. Defendants admit there was an appeal of the approval of by Minor Amendment application by the Planning and Zoning Board. Defendants state the appeal in its entirety speaks for itself. Defendants deny the allegations in paragraph 122 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants deny the remaining allegations in paragraph 122 of Plaintiffs' First Amended Complaint.

123. Defendants state Colo. R. Civ. P. 106(a)(4) in its entirety speaks for itself. Defendants state the relief available pursuant to Colo. R. Civ. P. 106(a)(4) presents a legal determination not requiring a response from the Defendants. To any extent a response is deemed required, the allegations are denied. Defendants deny the remaining allegations in paragraph 123 of Plaintiffs' First Amended Complaint.

124. Defendants deny the allegations in paragraph 124 of Plaintiffs' First Amended Complaint.

125. Defendants state C.R.S. § 29-20-203(2) in its entirety speaks for itself. Defendants deny the allegations in paragraph 125 inconsistent therewith. Defendants deny the remaining allegations in paragraph 125 of Plaintiffs' First Amended Complaint.

126-127. Defendants deny the allegations in paragraphs 126-127 of Plaintiffs' First Amended Complaint.

THIRD CLAIM FOR RELIEF

(Discrimination in Violation of RLUIPA,
42 U.S.C. § 2000cc(b)(2)—Against City Defendants)

128. Defendants incorporate herein by reference all their responses to the allegations in paragraphs 1-127 above as their response to the allegations in paragraph 128 as if fully set forth herein.

129. Defendants state 42 U.S.C. § 2000cc(b)(2) in its entirety speaks for itself. Defendants deny the allegations in paragraph 129 inconsistent therewith. Defendants deny the remaining allegations in paragraph 129 of Plaintiffs' First Amended Complaint.

130-133. Defendants deny the allegations in paragraphs 130-133 of Plaintiffs' First Amended Complaint.

FOURTH CLAIM FOR RELIEF

(Treating a Religious Assembly on Less Than Equal Terms in Violation
of RLUIPA, 42 U.S.C. § 2000cc(b)(2)—Against City Defendants)

134. Defendants incorporate herein by reference all their responses to the allegations in paragraphs 1-133 above as their response to the allegations in paragraph 134 as if fully set forth herein.

135. Defendants state 42 U.S.C. § 2000cc(b)(1) in its entirety speaks for itself. Defendants deny the allegations in paragraph 135 inconsistent therewith. Defendants deny the remaining allegations in paragraph 135 of Plaintiffs' First Amended Complaint.

136-138. Defendants deny the Plaintiffs' allegations in paragraphs 136-138 of Plaintiffs' First Amended Complaint.

FIFTH CLAIM FOR RELIEF

(Imposition of a Substantial Burden in Violation of
RLUIPA, 42 U.S.C. § 2000cc(a)(1)—Against City Defendants)

139. Defendants incorporate herein by reference all their responses to the allegations in paragraphs 1-138 above as their response to the allegations in paragraph 139 as if fully set forth herein.

140-141. Defendants state 42 U.S.C. § 2000cc(a)(1) in its entirety speaks for itself. Defendants deny the allegations in paragraphs 140-141 inconsistent therewith. Defendants state the applicability of 42 U.S.C. § 2000cc(a)(1) presents a determination of law not requiring a response from the Defendants. To any extent a response is deemed required, the allegations are denied. Defendants deny the remaining allegations in paragraphs 140-141 of Plaintiffs' First Amended Complaint.

142-146. Defendants deny the allegations in paragraphs 142-146 of Plaintiffs' First Amended Complaint.

SIXTH CLAIM FOR RELIEF

(Unconstitutional Vagueness in Violation of Fourteenth Amendment
Right to Due Process, 42 U.S.C. § 1983—Against City Defendants)

147. Defendants incorporate herein by reference all their responses to the allegations in paragraphs 1-146 above as their response to the allegations in paragraph 147 as if fully set forth herein.

148. Defendants state the Due Process Clause of the Fourteenth Amendment in its entirety speaks for itself. Defendants deny the allegations in paragraph 148 inconsistent therewith. Defendants state the applicability of the Due Process Clause of the Fourteenth Amendment presents a determination of law not requiring a response from the Defendants. To any extent a response is deemed required, the allegations are denied. Defendants deny the remaining allegations in paragraph 148 of Plaintiffs' First Amended Complaint.

149-150. Defendants deny the allegations in paragraphs 149-150 of Plaintiffs' First Amended Complaint.

SEVENTH CLAIM FOR RELIEF

(Unconstitutional Vagueness in Violation of Right to Due Process,
Art. II, § 25, of the Colorado Constitution—Against City Defendants)

151. Defendants incorporate herein by reference all their responses to the allegations in paragraphs 1-150 above as their response to the allegations in paragraph 151 as if fully set forth herein.

152. Defendants state Article II, Section 25 of the Colorado Constitution in its entirety speaks for itself. Defendants deny the allegations in paragraph 152 of Plaintiffs' First Amended Complaint inconsistent therewith. Defendants state the applicable of

Article II, Section 25 of the Colorado Constitution presents a determination of law not requiring a response from the Defendants. To any extent a response is deemed required, the allegations are denied. Defendants deny the remaining allegations in paragraph 152 of Plaintiffs' First Amended Complaint.

153-154. Defendants deny the allegations in paragraphs 153-154 of Plaintiffs' First Amended Complaint.

EIGHTH CLAIM FOR RELIEF

(Imposing Discriminatory Conditions Not Based Upon Duly Adopted or Sufficiently Specific Standards in Violation of RIPRA—Against City Defendants)

155. Defendants incorporate herein by reference all their responses to the allegations in paragraphs 1-154 above as their response to the allegations in paragraph 155 as if fully set forth herein.

156. Defendants state C.R.S. § 29-20-203(2) in its entirety speaks for itself. Defendants deny the allegations in paragraph 156 inconsistent therewith. Defendants state the applicability of C.R.S. § 29-20-203(2) presents a determination of law not requiring a response from the Defendants. To any extent a response is deemed required, the allegations are denied. Defendants deny the remaining allegations in paragraph 156 of Plaintiffs' First Amended Complaint.

157. Defendants state C.R.S. § 29-20-204(2) in its entirety speaks for itself. Defendants deny the allegations in paragraph 157 inconsistent therewith. Defendants state the applicability of C.R.S. § 29-20-204(2) presents a determination of law not requiring a response from the Defendants. To any extent a response is deemed

required, the allegations are denied. Defendants deny the remaining allegations in paragraph 157 of Plaintiffs' First Amended Complaint.

158-161. Defendants deny the allegations in paragraphs 158-161 of Plaintiffs' First Amended Complaint.

PRAYER FOR RELIEF

Defendants deny all the allegations following the heading "Prayer for Relief" on page 28 of Plaintiffs' First Amended Complaint including all the allegations in subparagraphs (A) through (D). Defendants deny Plaintiffs are entitled to any of the relief sought in the Plaintiffs' First Amended Complaint.

GENERAL DENIAL

Defendants deny each and every allegation in Plaintiffs' First Amended Complaint not specifically admitted in this Answer.

DEFENSES AND AFFIRMATIVE DEFENSES

1. Plaintiffs' First Amended Complaint fails to state a claim upon which relief may be granted against Defendants.

2. All or part of Plaintiffs' claims do not rise to the level of constitutional, statutory or common law violations sufficient to state a claim upon which relief may be granted against Defendants.

3. Defendants actions were taken for legitimate nondiscriminatory reasons within the authority of the Defendants.

4. Defendants acted in conformity with all constitutional, statutory, and common law requirements of federal and Colorado law.

5. The conditions imposed by the City Council in approving the Minor Amendment application serve important and legitimate governmental objectives, are not discriminatory or improper, and do not substantially burden any exercise of religion by the Plaintiffs.

6. The City Council's decision was a quasi-judicial decision and therefore the statements any single member of City Council are not and cannot be attributed to the City Council as a whole.

7. The City Council's decision was supported by competent evidence in the record before the City Council and therefore the City Council did not abuse its discretion or exceed its jurisdiction.

8. Plaintiffs have not and cannot meet all the requirements for either the elements of their claims or the declaratory and injunctive relief requested by the Plaintiffs.

9. Some of the Plaintiffs' allegations may be barred by the applicable statute of limitations.

10. Defendants specifically reserve the right to amend their Answer to include additional defenses and affirmative defenses and/or delete defenses and affirmative defenses which have become applicable or non-applicable upon completion of additional discovery.

WHEREFORE, having answered the allegations contained in the Plaintiffs' First Amended Complaint and Request for Declaratory and Injunctive Relief, Defendants the City of Fort Collins and the City of Fort Collins City Council respectfully request the

Plaintiffs' claims in their entirety be dismissed with prejudice, and for all other and further relief as this Court deems just and appropriate pursuant to applicable federal and Colorado law.

Dated this 15th day of March, 2019.

Respectfully submitted,

s/ Andrew D. Ringel
Andrew D. Ringel, Esq.
HALL & EVANS, L.L.C.
1001 Seventeenth St., Suite 300
Denver, CO 80202
Phone: 303-628-3300
Fax: 303-628-3368
ringela@hallevans.com

**ATTORNEYS FOR DEFENDANTS
THE CITY OF FORT COLLINS AND
THE CITY OF FORT COLLINS CITY
COUNCIL**

CERTIFICATE OF SERVICE (CM/ECF)

I hereby certify that on this 15th day of March, 2019, I electronically filed the foregoing with the Clerk of Court using the CM/EFC system which will send notification of such filing to the following e-mail addresses:

Brian J. Connolly, Esq.
bconnolly@ottenjohnson.com

Thomas Macdonald, Esq.
mac@ottenjohnson.com

Andrew L.W. Peters, Esq.
apeters@ottenjohnson.com

David A. Brewster, Esq.
dbrewster@ottenjohnson.com

s/ Nicole Marion, legal assistant to
Andrew D. Ringel, Esq.
HALL & EVANS, L.L.C.
1001 Seventeenth St., Suite 300
Denver, CO 80202
Phone: 303-628-3300
Fax: 303-628-3368
ringela@hallevans.com

**ATTORNEYS FOR DEFENDANTS
THE CITY OF FORT COLLINS AND
THE CITY OF FORT COLLINS CITY
COUNCIL**