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8
9 **UNITED STATES DISTRICT COURT**
10 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

11 VIETNAMESE BUDDHISM STUDY
12 TEMPLE IN AMERICA (a.k.a. CHUA
QUAN AM), a non-profit religious
13 organization, TRI NGUYEN THICH
(a.k.a. THICH DAO QUANG), the
14 religious leader of Chua Quan Am,

15 Plaintiffs,

16 v.

17 CITY OF GARDEN GROVE; CITY
COUNCIL OF THE CITY OF GARDEN
18 GROVE; CITY OF GARDEN GROVE
PLANNING COMMISSION; WILLIAM
DALTON, in his individual and official
19 capacity as Mayor of the City of Garden
Grove; MARK ROSEN; HARRY KREBS,
20 MARK LEYES; JANET NGUYEN, in
their individual and official capacities as
21 members of the Garden Grove City
Council; LARRY CALLAHAN, STEVE
22 JONES, ROLAND CHI, NICK LECONG,
JERRY MARGOLIN, in their individual
23 and official capacities as members of the
Garden Grove Planning Commission;
24 MATTHEW FERTAL, in his official
capacity as City Manager for the City of
25 Garden Grove, and DOES 1 through 25,

26 Defendants.
27
28

Case No. :

**COMPLAINT FOR
PRELIMINARY AND
PERMANENT INJUNCTION;
DECLARATORY JUDGMENT;
AND DAMAGES FOR
VIOLATION OF THE
RELIGIOUS LAND USE &
INSTITUTIONALIZED
PERSONS ACT OF 2000
(42 U.S.C. § 2000cc);
CIVIL RIGHTS VIOLATIONS
(42 U.S.C. § 1983)**

DEMAND FOR JURY TRIAL

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INTRODUCTION

Plaintiffs Vietnamese Buddhism Study Temple in America (a.k.a. Chua Quan Am) (“Quan Am Temple” or the “Temple”) and the Most Venerable Thich Dao Quang (the “Abbot”) (collectively “Plaintiffs”) allege as follows:

1. This action seeks to vindicate and to safeguard Plaintiffs’ civil rights. Defendant City of Garden Grove (the “City”) and Defendant City officials have prevented Quan Am Temple and the Abbot from using their property to assemble, worship, and hold religious services. In doing so, Defendants have impermissibly burdened Plaintiffs’ religious exercise, expression, and association, and violated Plaintiffs’ rights under the Free Exercise, Free Speech, Free Assembly, Due Process, and Equal Protection Clauses of the United States and California Constitutions, and the Religious Land Use and Institutionalized Persons Act of 2000 (“RLUIPA”), 42 U.S.C. § 2000cc et seq.

2. Plaintiffs seek preliminary and permanent relief enjoining the City, its employees, successors and agents, and all persons subject to its direction and control from depriving Plaintiffs of their constitutional rights as guaranteed by the United States and California Constitutions and from depriving Plaintiffs of their rights under RLUIPA. Plaintiffs also seek a declaration under 28 U.S.C. §§ 2201 and 2202 that Defendant City’s land use and zoning laws, both on their face and as applied to Plaintiffs, are unconstitutional. Plaintiffs seek reasonable costs of litigation, including attorney’s fees and expenses. Finally, Plaintiffs seek compensatory and nominal damages.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1343. Declaratory and/or injunctive relief is authorized under 28 U.S.C. §§ 2201 and 2202. This Court has supplemental jurisdiction over the state law claims under 28 U.S.C. § 1367(a).

1 4. Venue is proper in this Court under 28 U.S.C. § 1391(b) because
2 Defendants reside in, and all incidents, events, and occurrences giving rise to this
3 action occurred in, the County of Orange, California.
4

5 **PARTIES**

6 **A. Plaintiffs**

7 5. Plaintiff Vietnamese Buddhism Study Temple in America (a.k.a. Chua Quan
8 Am) is a religious assembly or institution, and a nonprofit corporation organized
9 and existing under the laws of the State of California. It is presently located
10 within the City of Garden Grove, County of Orange, California. It has operated as
11 a religious institution and held public worship services in and around Orange
12 County since 1999. Its religious community includes seven fully-ordained monks,
13 four fully-ordained nuns, three novice nuns, a small core group of approximately
14 100 lay disciples, and a larger congregation of approximately 150 to 300
15 supporters who live in and around Orange County and the City of Garden Grove.
16 Its purpose is to engage in religious exercise by operating a monastery, conducting
17 regular worship, prayer, repentance and chanting services, as well as funeral,
18 memorial, and wedding services, teaching Buddhist doctrine and history, and
19 supporting Buddhist youth groups.

20 6. Plaintiff Thich Dao Quang (a.k.a. Tri Nguyen Thich), who is referred to as
21 the Abbot or Master, the highest title given a spiritual leader in Buddhism, is a
22 Buddhist monk and the spiritual leader of Quan Am Temple.¹ He is a resident of
23 Orange County, California.

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28 ¹ “Thich Dao Quang” is the Abbot’s Buddhist name; “Tri Nguyen Thich” is his legal name.

1 **B. Defendants**

2 7. Defendant City of Garden Grove is an incorporated municipality located in
3 Orange County. The City's governing body consists of a five-member City
4 Council ("Council"). The City acts through its Council, its officials, employees
5 and official bodies and is empowered by virtue of the State of California to
6 regulate and restrict the use of land and structures within the City's borders. The
7 Council is empowered to make the final decision on requests to amend the General
8 Plan and applications for a Zone Change. GARDEN GROVE, CAL., CODE §
9 9.24.030.

10 8. Defendant City of Garden Grove Planning Commission ("Commission") is
11 delegated the power to grant special land use permits under the Garden Grove
12 Municipal Code and California law. Specifically, the Commission is empowered
13 to make the final decision on applications for approval of a Site Plan and
14 Conditional Use Permit ("CUP"). GARDEN GROVE, CAL., CODE § 9.24.030. The
15 Commission's decisions are appealable to the City Council. *Id.* The Commission
16 makes recommendations to the City Council regarding requests to amend the
17 General Plan and applications for a Zone Change. *Id.* The Commission is made
18 up of seven members appointed by the Mayor of the City of Garden Grove.

19 9. Defendant William Dalton is the Mayor of the City of Garden Grove and a
20 member of the City Council. On information and belief, Defendant Dalton is, and
21 was at all relevant times, a resident of Orange County, California.

22 10. Defendant Mark Rosen is a member of the Garden Grove City Council. On
23 information and belief, Defendant Rosen is, and was at all relevant times, a
24 resident of Orange County, California.

25 11. Defendant Harry Krebs is a member of the Garden Grove City Council. On
26 information and belief, Defendant Krebs is, and was at all relevant times, a
27 resident of Orange County, California.

28 12. Defendant Mark Leyes is a member of the Garden Grove City Council. On

1 information and belief, Defendant Leyes is, and was at all relevant times, a
2 resident of Orange County, California.

3 13. Defendant Janet Nguyen is a member of the Garden Grove City Council.
4 On information and belief, Defendant Nguyen is, and was at all relevant times, a
5 resident of Orange County, California.

6 14. Defendant Larry Callahan is a member of the City of Garden Grove
7 Planning Commission. On information and belief, Defendant Callahan is and was
8 at all relevant times, a resident of Orange County, California.

9 15. Defendant Steve Jones is a member of the City of Garden Grove Planning
10 Commission. On information and belief, Defendant Jones is, and was at all
11 relevant times, a resident of Orange County, California.

12 16. Defendant Roland Chi is a member of the City of Garden Grove Planning
13 Commission. On information and belief, Defendant Chi is, and was at all relevant
14 times, a resident of Orange County, California.

15 17. Defendant Nick Lecong is a member of the City of Garden Grove Planning
16 Commission. On information and belief, Defendant Lecong is, and was at all
17 relevant times, a resident of Orange County, California.

18 18. Defendant Jerry Margolin is a member of the City of Garden Grove
19 Planning Commission. On information and belief, Defendant Margolin is, and
20 was at all relevant times, a resident of Orange County, California.

21 19. Defendant Matthew J. Fertal is the City Manager of the City of Garden
22 Grove, designated as enforcing agent and is declared to have the powers of a peace
23 officer for the purpose of enforcing the City's land use ordinances. Defendant
24 Fertal is sued in his official capacity only. *See* GARDEN GROVE, CAL., CODE §
25 9.24.020.

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1 20. Plaintiffs are informed and believe, and on this basis allege, that at all times
2 here mentioned, each of the Defendants was the agent, servant, and employee of
3 each of the remaining Defendants, and at all times here mentioned, each was
4 acting within the time, place, course and scope of said agency and employment.
5 All of the acts of Defendant City, its officers, agents, servants and employees, as
6 alleged here, were conducted under color and pretense of the statutes, policies,
7 regulations, ordinances and customs and usages of Defendant City.

8 21. Plaintiffs are unaware of the true names and legal capacities of the
9 Defendants sued here as DOES 1 through 25 and, therefore, sue those Defendants
10 by such fictitious names. Plaintiffs will amend their complaint to allege their true
11 names and capacities when the same has been ascertained. Plaintiffs are informed
12 and believe, and on this basis allege, that each DOE Defendant is in some way
13 legally responsible for the acts, omissions, and damages alleged here to have been
14 caused by each remaining Defendant.

15 STATEMENT OF FACTS

16 22. With the help of lay supporters, Abbot Thich Dao Quang, a Buddhist monk
17 and refugee of Vietnam, founded Quan Am Temple in 1999. The Abbot is the
18 foundation of Quan Am Temple's spiritual community. He is revered for his
19 experience and learning. His followers, both monastic and lay, describe him as
20 their teacher, father, mother, and friend. He is their spiritual guide: through his
21 encouragement and his example, he guides them on their spiritual path to ultimate
22 clarity and peace.

23 23. The Abbot adheres strictly to traditional Vietnamese Buddhist customs and
24 ideals, and practices a conservative, orthodox style of Buddhism. The Abbot's
25 reputation for propriety and orthodoxy has attracted a large community of monks
26 and nuns – referred to as the Temple's *sangha* – as well as a large and devoted
27 group of lay followers. To serve the *sangha* and the congregation, Quan Am
28 Temple needs a place of worship that can serve both as a monastery and as a place

1 for the monastics and followers to assemble.

2 24. Quan Am Temple practices Pure Land, a school of Buddhism that
3 emphasizes faith, prayer, study, good works, and devotional chanting. Pure Land
4 Buddhists believe they can achieve personal enlightenment by helping others
5 relieve themselves of suffering. Accordingly, Pure Land Buddhists attempt to put
6 basic Buddhist principles like selflessness, patience, equanimity, generosity, and
7 compassion to work in their lives for the benefit and fulfillment of others.

8 **A. Quan Am Temple's Sangha and Its Former Practice**

9 25. The Quan Am Temple's *sangha* have relinquished their worldly attachments
10 in favor of a simple life devoted to Buddhist teachings and practice. They should
11 pray, meditate, chant, read the sutras (spiritual scriptures) together in the presence,
12 and with the participation, of the Abbot. The Abbot's purpose is to teach others
13 how to live with peaceful minds and open hearts. He believes he is most helpful
14 to others when providing spiritual instruction and inspiration. He does this not
15 only verbally, but also through his presence, which can convey great meaning
16 even through silent gestures. For this reason, Quan Am Temple's *sangha* need to
17 be consistently in the Abbot's presence. Indeed, the seven monks and five nuns,
18 including the Abbot, should live together as a family. This allows the *sangha* to
19 be accountable to one another and help one another remain on the spiritual path.
20 Their practice should be not one of solitude, but one of fellowship, with each other
21 and with lay congregants.

22 26. As a central practice of their religion, the *sangha*, including the Abbot,
23 followed a strict daily ritual schedule of prayer and devotion that afforded lay
24 individuals the opportunity to join in their devotional practices:

25 (a) From 4:00 a.m. to 5:00 a.m. the monastics meditated together.

26 (b) From 5:00 a.m. to 6:15 a.m. the monastics bowed and repented to
27 Buddha and express their devotion to practice by reciting the Pure Land Sutras,
28 which are a collection of texts or scriptures that form the spiritual foundation of

1 the Temple's beliefs.

2 (c) From 7:00 a.m. to 8:00 a.m. the monastics met to discuss morning
3 work assignments over a light breakfast. After determining their responsibilities,
4 they worked diligently and mindfully² until 10:30 a.m.

5 (d) From 10:30 a.m. to 11:15 a.m. the monastics met to recite sutra. This
6 period was open to lay supporters who are welcome to join the monastics in their
7 devotion practice.

8 (e) The monastics then sat down for the main meal of the day, a formal
9 affair offered by lay members. The meal was prepared and served by lay
10 supporters as a show of their respect and devotion to Buddhism, the Abbot, and
11 the monastics. The meal was ritualized, but not solemn. Monks and nuns sat in a
12 general order of rank, with lay people at the end of the table farthest from the
13 Abbot.

14 (f) Following the meal, the monastics spent the afternoon meditating,
15 studying, doing chores, or resting on their own. They also used this time to
16 participate in charity and good works, such as feeding the homeless, visiting
17 nursing homes, and meeting with lay supporters and their families to discuss any
18 problems that they may be having.

19 (g) From 4:00 p.m. to 5:00 p.m. the monastics again met to recite sutra
20 and make offers to the spirits of lay supporters' departed ancestors.³ This period
21 was also open to lay supporters who are welcome to join the monastic in their
22 devotion practice. Dinner follows from 5:15 p.m. to 6:00 p.m.

23 (h) From 7:30 p.m. to 8:30 p.m. the monastics recited sutra and invited
24

25 ² Mindfulness is the foundation for all Buddhist spiritual practice. It is
26 a form of meditation that emphasizes that a person must "wake up" and live life
consciously and deliberately – as fully aware of experiences as possible.

27 ³ Quan Am Temple's congregants entrust the Temple and the Abbot
28 with pictures of their family members who have died. They believe that this will
ensure that the spirit of their ancestors will be looked after on a daily basis.

1 lay supporters to join them in their practice.

2 (i) Joint meditation followed from 9:30 p.m. to 10:30 p.m.

3 27. As a central practice of their religion, the Abbot and his *sangha* also
4 conducted religious ceremonies, such as funerals, memorial services, weddings, or
5 soul repose prayer. These ceremonies were ritualized and could last several
6 weeks. For example, when a person dies, the monastics and lay supporters pray
7 together for the person's spirit to leave this world and enter the next. The joint
8 prayer sessions, which Buddhists believe are necessary to assist the deceased in
9 passing from this life to the next, resumed every seven days for seven weeks. The
10 spirit of the departed friend or family member is believed to remain at the Temple,
11 where lay supporters can visit, worship, and pay their respects.

12 **B. Quan Am Temple's Lay Members and Their Former Practice**

13 28. As central practices of their religion, the monks and nuns, including the
14 Abbot, maintained an interdependent relationship with the Temple's lay
15 congregants. It is through the *sangha's* teaching, encouragement, and example
16 that lay practitioners are directed on their spiritual paths to eliminate suffering and
17 to achieve ultimate clarity and peace. The Abbot and the *sangha* are a source of
18 inspiration and support to the lay practitioners, demonstrating the benefits of
19 following a spiritual path.

20 29. Quan Am Temple's lay supporters practiced their Buddhist faith by
21 attending the Temple and listening to sermons from the Abbot; chanting sutras
22 with the Abbot and the other monastics; learning Buddhism from the Abbot and
23 the other monastics, who have devoted their lives to deepening their dharma
24 wisdom; visiting and worshiping the spirits of their departed ancestors, which are
25 believed to reside at the Temple; participating in special ceremonies that mark the
26 changing seasons and the turning of the year; preparing meals for and sharing
27 meals with the Abbot and the other monastics; helping fellow Temple members in
28 times of need; participating in charity and good works; and applying and

1 practicing Buddhist principles in their everyday lives in the context of family and
2 friends, with the help, guidance, and encouragement of the Abbot and the
3 Temple's *sangha*.

4 30. In addition to having the opportunity to join the monastics in their daily
5 devotional practice, lay supporters participated in *Sam hoi*. *Sam hoi* is the bi-
6 monthly repentance ceremony, usually held on the new and full moons. The
7 monastics chanted *sam hoi* with lay people every other weekend. Also, every
8 Sunday, the Temple held weekend services for lay supporters, their families, and
9 other interested community members.

10 31. Seasonal holidays also brought Quan Am Temple's community together to
11 celebrate special occasions, such as Buddha's birthday, the New Year, and Vu
12 Lan, a day for honoring parents and the spirits of departed ancestors. These
13 functions could draw hundreds in attendance. Additionally, on the eve of the
14 Vietnamese New Year, or Tet, the monastics and a small number of people
15 gathered, chanted, and received a lesson and a blessing from the Abbot. During
16 Tet season (which usually lasts up to a month) the Temple sponsored pilgrimages,
17 visiting other Vietnamese and Chinese temples.

18 32. Quan Am Temple also sponsored the activities of Gia Dinh Phat Tu, or the
19 Buddhist Youth Group. The Youth Group met every Sunday morning to learn
20 about Buddhist doctrine and history, as well as Vietnamese language and culture.
21 The Youth Group also held regular cultural performances of singing, dancing, and
22 skit, and it organized and decorated for festivals and larger ritual celebrations.
23 These performances were the highlight of Temple celebrations.

24 C. Quan Am Temple – The Search For A Place of Worship

25 33. From 1999 to 2003, the temple building was a small, one story ranch house
26 in the City of Garden Grove. By 2003, Quan Am Temple's *sangha* and
27 congregation had outgrown the small house. When neighbors began complaining
28 about increased traffic, lack of parking, and noise, and the City threatened legal

1 action if the activity at the temple was not kept to a minimum, the Temple
2 curtailed its busy schedule. Rather than dispute the City, the Temple sought a
3 property for use as a monastery by the *sangha* and for use as a place of worship by
4 the *sangha*, its growing membership, and others in the community who wish to
5 learn of Quan Am Temple's mission and beliefs.

6 34. In or around 2004, a devoted follower loaned Quan Am Temple \$1.95
7 million to purchase a property consisting of a 1.8 acre parcel improved with a one-
8 story building used as a medical center and located at 10510 Chapman Avenue,
9 Garden Grove (the "Subject Property"). The Subject Property had been on the
10 market for 3 years.

11 35. The Subject Property is designated as and zoned for use as O-P (Office
12 Professional) under the City's General Plan. It is bounded by the Boys and Girls
13 Club of Garden Grove to the east, single-family residences to the south across a
14 twenty-two-foot-wide alley, single-family residences and apartments to the west
15 across Nutwood Street, and residential condominiums to the north across
16 Chapman Avenue.

17 36. In or around February 2004, before purchasing the Subject Property, the
18 Abbot and two lay followers met with the former Mayor of Garden Grove, Bruce
19 Broadwater, and then Council members Van Tran and Defendant William Dalton
20 to ask whether a temple could be built on the Subject Property. The City Manager
21 had at the time advised that the land was sufficient to build a temple, but the
22 zoning had to be changed. Mayor Broadwater advised the Abbot to proceed and
23 that the City would support the building of the Temple.

24 37. The Abbott purchased the property in or about March 2004 for the sole
25 purpose of building a temple to be used as a monastery and place of worship for
26 Quan Am Temple's *sangha*, lay supporters, and others interested in its mission
27 and teachings. Quan Am Temple then developed detailed plans and commenced
28 the process of obtaining the necessary permission to develop and use the Subject

1 Property for religious purposes as required under the City of Garden Grove
2 Municipal Code. The footprint of the intended temple building would be about
3 half the size of the footprint of the existing medical building.

4 **D. Garden Grove's Zoning Ordinances**

5 38. State law grants the City the authority to adopt and administer zoning laws,
6 ordinances, rules, or regulations, as well as implement such general plan as may be
7 in effect in the City. CAL. GOV. CODE § 65000, *et seq.*

8 39. Specific zones of properties within the City are established by the City zone
9 map and changed by amendment to that map. GARDEN GROVE, CAL., CODE §
10 9.04.050.

11 40. Title 9 of the City of Garden Grove's Municipal Code (the "GGZO")
12 divides Garden Grove into ten zoning districts. GARDEN GROVE, CAL., CODE §
13 9.04.050.

14 41. The GGZO also delineates permitted uses as of right and uses permitted
15 only through special use permit or prior conditional use permit. GARDEN GROVE,
16 CAL., MUNI. CODE § 9.08.030. Garden Grove's zoning scheme is permissive: any
17 use not specifically permitted as of right is generally prohibited. *See id.*

18 42. Under the GGZO, churches and other religious centers are generally
19 prohibited as a matter of right in all of the City's ten zones. *See id.* By contrast,
20 meeting facilities to be used for secular purposes, such as private clubs and lodges,
21 are permitted as a matter of right in four zones, including O-P (Office
22 Professional), C-1 (Neighborhood commercial), C-2 (Community Commercial)
23 and O-S (Open Space).⁴ *See* GARDEN GROVE, CAL., CODE §§9.080.020 and
24 9.080.030.

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28 ⁴ Similarly, educational institutions are permitted as a matter of right in
three districts, whereas religious schools, like churches and other religious centers,
are prohibited in all zones as a matter of right. *See* GARDEN GROVE, CAL., MUNI.
CODE § 9.080.030.

1 43. The GGZO permits churches and other religious centers in the R-1 (Single-
2 family residential zone), R-2 (Limited multiple residential zone), R-3 (Multiple-
3 family residential zone), and O-S (Open space zone) only by way of conditional
4 use permit ("CUP"), subject to specific conditions of such permit, obtained after a
5 public hearing and approval by the Commission.⁵ See GARDEN GROVE, CAL.,
6 CODE § 9.08.030 (stating that churches and other religious centers are "eligible for
7 consideration under the conditional use procedures and permitted only if the
8 conditional use permit is approved, subject to specific conditions of such
9 permit").⁶

10 44. Moreover, churches and other religious centers are subject to specific
11 restrictions as listed in the GGZO, including the requirements that the religious
12 center be located on a minimum one-acre site, have specific setbacks, sufficient
13 parking, and be accessible from a least one public street. See GARDEN GROVE,
14 CAL., CODE § 9.08.050. On information and belief, there are few, if any, one-acre
15 or more residential lots available in the City of Garden Grove. Meeting facilities
16 to be used for secular purposes are not subject to these requirements.

17 **E. The Temple's First Land Use and Zoning Application**

18 45. In December 2004, Quan Am Temple filed its first application with the City
19 Planning Commission. As required under the GGZO, the Temple requested to
20 amend the General Plan by changing the current designation of O-P (Office-
21 Professional) to LDR (Low Density Residential), and to re-zone the property to R-
22 1-7 (Single Family Residential). See GARDEN GROVE, CAL., CODE §§ 9.24.030(1)

24 ⁵ Religious schools are also subject to this requirement.

25 ⁶ The GGZO provides that a CUP shall only be granted where the
26 requested use at the location proposed will not: [(1)] Adversely affect the health,
27 peace, comfort or welfare of persons residing or working in the surrounding area,
28 or [(2)] Unreasonably interfere with the use, enjoyment or valuation or property of
other persons located in the vicinity of the site, or [(3)] Jeopardize, endanger or
otherwise constitute a menace to public health, safety or general welfare.

1 & (2). The Temple also requested approval of a Site Plan to facilitate the building
2 of a two-story, 15,500-square-foot temple on the property (to accommodate the
3 Temple's growing congregation) and approval of a CUP to operate a religious
4 facility on the site. The maximum occupancy of the proposed temple building was
5 340 people.

6 46. Before the February 2005 meeting of the Commission to consider its
7 application, the Temple worked with City staff in an attempt to resolve the City's
8 concerns regarding increased traffic and potential revenue loss.

9 47. Quan Am Temple paid for a traffic study report to be prepared. The report
10 indicated that no street or signal improvements would be required and that the
11 proposed project would have a negligible impact on surrounding intersections.
12 Indeed, the report concluded that the project would result in a net decrease in area
13 traffic. *See Vietnamese Buddhism Temple Traffic Impact Study at 3 (October*
14 *2004), attached to this Complaint as Exhibit A.*

15 48. Quan Am Temple also agreed to compensate the City for any loss of
16 property tax revenue that may result from a religious facility occupying the
17 property, although, as a non-profit organization, it is not required to pay such
18 taxes.

19 49. Finding that the project met all technical requirements, including required
20 setbacks, aesthetic compatibility, and adequate parking, the City staff
21 recommended that the Commission approve Quan Am Temple's request; however,
22 the Commission denied it by a vote of 2-2. The Temple appealed to the City
23 Council, which affirmed the denial.

24 50. In approximately December 2004 or January 2005, the City ordered the
25 Abbot and the Temple's *sangha* out of the Subject Property. Complying with the
26 order, the Abbot and the Temple's *sangha* rented a house near the Subject
27 Property at a cost of \$1,500 a month.

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1 **F. The Temple's Second Land Use and Zoning Application**

2 51. In October 2005, the Temple again sought approval from the City.

3 52. In a further attempt to resolve the City's concerns, Quan Am Temple
4 reduced the proposed temple building's square footage and height, and it increased
5 the number of available parking spaces.

6 53. To address the City's purported concerns regarding parking during major
7 Buddhist holidays, the Temple also agreed to provide shuttle services to its
8 members during the celebrations of New Year, Buddha's Birthday and Vu Lan
9 (a.k.a. Ancestral Remembrance Day). Congregants would park off-site and be
10 shuttled to and from the temple.

11 54. In November 2005, although the Planning Commission agreed that the
12 "proposed development meets with Title 9 Development Standards for a religious
13 facility," "the Site Plan is designed within the parameters of the R-1 zone
14 regarding churches and religious facilities," "provides sufficient off-street parking
15 spaces for a religious facility," "the adjacent streets are adequate to accommodate
16 the development once the developer provides the necessary improvements," and
17 "the project has been designed in accordance with City Code provisions for
18 providing an adequate amount of public and private open spaces," the Commission
19 denied Quan Am Temple's application. *See* Resolution Nos. 5519 at 2-3 (Nov. 3,
20 2005), attached to this Complaint as Exhibit C.

21 55. In its written report, the Commission stated three bases for its decision to
22 deny Quan Am Temple's application: first, the temple structure would be
23 incompatible with other existing land uses in the area "due to the likelihood that it
24 will impact the neighborhood by increased through traffic, increased demand for
25 on-street parking, and [it] will not have continuity with architecture and intensity
26 of use with respect to surrounding neighborhoods"; second, the temple would not
27 promote the public interest because it "will increase undesired impacts to the area
28 by increasing traffic through the neighborhood and increasing demand for on-

1 street parking”; and third, although the size and shape of the parcel is suitable for
2 low-density residential use, “the City’s desire is to maintain the site as Office
3 Professional.” *See* Resolution No. 5518 at 2-3 (Nov. 3, 2005), attached to this
4 Complaint as Exhibit B.

5 56. Quan Am Temple appealed to the City Council, which denied the appeal on
6 February 28, 2006. At the public hearing, various City council members backed
7 away from the stated concerns with compatibility, traffic, and parking. Instead,
8 they voiced concern that re-zoning the property as residential would reduce the
9 City’s tax revenues. In addition, one council member, Defendant Harry Krebs,
10 suggested that perhaps there were too many “venerables” in the City and that
11 residents should worship at one of the existing Buddhist temples in the City.

12 **G. Life at the Quan Am Temple Today**

13 57. Since the rejection of the Temple’s first application, the City’s code
14 enforcement officers have repeatedly visited the Subject Property on numerous
15 occasions, warning the Abbot and his followers to discontinue all religious
16 practices at the property. *See* GARDEN GROVE, CAL., CODE § 9.24.020 (“Violation
17 of any provision of this title or any condition of any permit, including but
18 expressly not limited to any conditional use permit . . . shall be a public nuisance
19 and a misdemeanor.”). Code enforcement officers have also visited the rental
20 house, where the monastics currently reside, on several occasions to confirm that
21 the monastics are not using the Subject Property as a monastery.

22 58. Fearing punishment from the City, the Abbot has discontinued religious
23 services for lay people and the daily ritual practice of the monastics.

24 59. The Abbot has held no study, meditation, or prayer sessions for followers.
25 According to Buddhist practice, prayer and meditation practices for lay
26 practitioners should be held at least once a day, and repentance sessions should be
27 held at least twice a month.

28 ///

1 60. The Temple has discontinued all weekend services for lay supporters, their
2 friends, families, and the general public.

3 61. The Abbot has been forced to reject requests from followers to participate in
4 funerals, weddings, and memorial services because these ceremonies are
5 ritualized, involving significant religious exercise, and require sufficient space to
6 support joint prayer sessions.

7 62. The monastics' religious exercise has been chilled. Unable to live together
8 at the intended temple Subject Property, the monastics have been forced to rent a
9 small house near the Subject Property. The tight living arrangements have forced
10 the monks and nuns to share living quarters, a violation of a central tenet of their
11 faith that requires male and female monastics to live in separate living quarters.

12 63. The monastics have abandoned significant parts of their daily ritual
13 schedule or curtailed other parts because: (1) they fear that they will be punished
14 by City code enforcement for practicing their religion, even if they practice at the
15 nearby rental house; and (2) the rental house is too small for them to all worship
16 together as required by their faith. Specifically:

17 (a) The *sangha*, including the Abbot, no longer meditate together from
18 4:00 a.m. to 5:00 a.m. and from 9:30 p.m. to 10:30 p.m.

19 (b) The monastics no longer bow and repent to Buddha and express their
20 devotion to practice by reciting the Pure Land Sutras from 5:00 a.m. to 6:15 a.m.

21 (c) From 7:00 a.m. to 8 a.m., the monastics meet at the Subject Property
22 to eat breakfast and discuss morning work assignments. Where ideally lay
23 supporters would prepare the breakfast for the monastics on the temple property, a
24 few lay supporters now bring the monastics breakfast that has been pre-prepared.
25 During breakfast and the discussion of work assignments, the monastics are
26 careful not to pray or meditate together or discuss or teach Buddhist principles or
27 practices. As with breakfast, the spiritual purpose and religious benefit of the
28 main meal of the day, served at 12:00 p.m., has been undermined.

1 (d) The monastics no longer meet to recite sutra from 10:30 a.m. to 11:15
2 a.m., 4:00 p.m. to 5:00 p.m. and 7:30 to 8:00 p.m. Also, lay supporters no longer
3 have the opportunity to join the Abbot and other monastics to recite sutra at these
4 times.

5 (e) Because Quan Am Temple has been unable to provide full support
6 and services to its congregants, financial contributions and donations to the
7 Temple have been greatly reduced. As a result, Quan Am Temple has been
8 financially unable to participate in charity and good works to the same extent as it
9 has in the past, whether, for example, feeding the homeless, donating money to
10 relief efforts, or helping orphans and the elderly.

11 (f) Moreover, many lay supporters have refrained from having contact
12 with Quan Am Temple, the Abbot, or the other monastics, believing that it will
13 cause further hardship for the Temple and its *sangha*. For instance, those lay
14 supporters and their families who have entrusted Quan Am Temple and the Abbot
15 with the spirits of their departed ancestors have not visited the Temple to worship.
16 Supporters and their families have been left feeling negligent in their duties
17 toward their ancestors.

18 19 Legal Challenge

20 64. Plaintiffs Quan Am Temple and Abbot Thich Dao Quang intend to use the
21 Subject Property for purposes of religious exercise, including worship services,
22 religious education, fellowship, and other religious meetings and programs.

23 65. Defendant City completely prohibits new places of worship from locating in
24 residential districts without a conditional use permit subject to special conditions,
25 in violation of the Temple's free exercise, free speech, freedom of assembly and
26 due process rights, and its rights under the RLUIPA.

27 66. Defendant City's GGZO, on its face and as applied to Plaintiffs Quan Am
28 Temple and the Abbot, is unconstitutional and unlawful.

1 67. At all times, Defendants have been, are presently, and will be, acting under
2 the color and authority of the laws of the United States and State of California.

3 **FIRST CAUSE OF ACTION**

4 **Preliminary and Permanent Injunction**

5 68. Plaintiffs reallege and replead all the allegations of the preceding
6 paragraphs of this Complaint and incorporate them here by reference.

7 69. Through the GGZO, the City has barred the possibility of places of worship
8 from locating in its districts, even residential, without first obtaining a CUP and
9 then becoming subject to additional conditions. Such restrictions are not imposed
10 on property used for non-religious purposes.

11 70. The denial of Plaintiffs' application for a General Plan amendment, Zone
12 change, Site Plan, and CUP violates Plaintiffs' right to free exercise of religion,
13 freedom of speech, freedom of assembly, due process and equal protection of the
14 laws, and as such violates the First and Fourteenth Amendments to the United
15 States Constitution and the California Constitution, Article I, Section 4. The
16 denial also violates the RLUIPA, 42 U.S.C. § 2000cc, *et seq.*

17 71. An actual controversy and dispute exists between the parties, which requires
18 the Court to decide the issues presented. Plaintiffs have exhausted all of their
19 legislative and administrative remedies. There is no plain, adequate, or speedy
20 remedy at law.

21 72. Unless enjoined and restrained by this Court, Plaintiffs' rights to free
22 speech, freedom of assembly, free exercise of religion, and equal protection will
23 continue to be violated. Further, Plaintiffs' rights under the RLUIPA will also
24 continue to be violated. Plaintiffs have also suffered monetary loss and damages
25 as a result of Defendants' unconstitutional actions.

26 73. All of the acts of Defendant City, its officers, agents, servants and
27 employees, as here alleged, were conducted under the cover and pretense of the
28 statutes, policies, regulations, customs, and usages of Defendant City.

1 74. Unless Defendants are enjoined and restrained from enforcing the
2 discriminatory GGZO against Plaintiffs, or alternatively, if they are not enjoined
3 and restrained from enforcing the GGZO in a discriminatory manner, Plaintiffs
4 will continue to suffer irreparable injury.

5 75. Plaintiffs pray for relief against Defendants as set forth in the prayer for
6 below .

7
8 **SECOND CAUSE OF ACTION**

9 **Violation of the Religious Land Use and Institutionalized Persons Act**

10 **Substantial Burden on Religious Exercise**

11 **(42 U.S.C. § 2000cc et seq.)**

12 76. Plaintiffs reallege and replead all the allegations of the preceding
13 paragraphs of this Complaint and incorporate them here by reference.

14 77. Defendants have deprived and continue to deprive Plaintiffs their right to
15 the free exercise of religion, as guaranteed under the RLUIPA, by imposing and
16 implementing a land use regulation that places a substantial burden on Plaintiffs'
17 religious exercise.

18 78. Defendant City has in place formal and informal procedures and practices
19 that permit Defendants, and each of them, to make individualized assessments of
20 the proposed religious use of the Subject Property. Defendant City further makes
21 and has in place one or more land use regulations which direct that no property
22 within the jurisdiction of the City may be used as a church without prior issuance
23 of a CUP.

24 79. Defendants have imposed and implemented, and threaten to continue to
25 impose and implement, land use regulations in a manner that has imposed a
26 substantial burden on Plaintiffs' religious exercise.

27 80. Defendants' actions are not in furtherance of any compelling governmental
28 interest, nor are they the least restrictive means of furthering any particular

1 governmental interest. As such, Defendants' actions violate 42 U.S.C. §§
2 2000cc(a).

3 81. As a proximate result of Defendants' actions, Plaintiffs have been damaged
4 and continue to be damaged for the costs incurred in applying for the General Plan
5 Amendment, Zoning Change, Site Plan, and CUP and other costs presently
6 unknown, but which are within the jurisdictional limits of this Court. Plaintiffs
7 will amend their Complaint or provide evidence at trial the nature and full extent
8 of these damages when they have been ascertained. Plaintiffs are entitled to an
9 order from this Court permanently enjoining Defendants from enforcing the land
10 use regulations against Plaintiffs, and an Order authorizing the Temple to proceed
11 with the building of its religious facility and engage in the free exercise of their
12 religion.

13 82. Plaintiffs have incurred substantial attorneys fees and expenses and request
14 that they be awarded such fees and expenses under 42 U.S.C. § 1988(b) and other
15 applicable statutes.

16
17 **THIRD CAUSE OF ACTION**

18 **Violation of the Religious Land Use and Institutionalized Persons Act**

19 **Discrimination on the Basis of Religion**

20 **(42 U.S.C. § 2000cc et seq.)**

21 83. Plaintiffs reallege and replead all the allegations of the preceding
22 paragraphs of this Complaint and incorporate them here by reference.

23 84. Defendants have deprived and continue to deprive Plaintiffs of their right to
24 be free from religious discrimination, as guaranteed under the RLUIPA, by
25 imposing and implementing a land use regulation that discriminates against them
26 on the basis of religion.

27 85. Defendant City has enacted the GGZO, which constitutes a land use
28 regulation. The GGZO facially discriminates on the basis of religion or religious

1 denomination and, as applied by Defendants, discriminated against Plaintiffs in
2 violation of 42 U.S.C. §§2000cc2(b)(2). Defendants' denial of Plaintiffs'
3 application for a General Plan Amendment, Zoning Change, Site Plan, and CUP
4 violates 42 U.S.C. §§2000cc2(b)(2).

5
6 **FOURTH CAUSE OF ACTION**

7 **Violation of the Religious Land Use and Institutionalized Persons Act**

8 **Equal Terms**

9 **(42 U.S.C. § 2000cc et seq.)**

10 86. Plaintiffs reallege and replead all the allegations of the preceding
11 paragraphs of this Complaint and incorporate them here by reference.

12 87. Defendants have deprived and continue to deprive Plaintiffs of their right to
13 be free from religious discrimination, as guaranteed under the RLUIPA, by
14 treating them on less than equal terms as a nonreligious assembly or institution.

15 88. Defendant City has enacted the GGZO, which constitutes a land use
16 regulation. The GGZO facially treats a religious assembly or institution on less
17 than equal terms with a nonreligious assembly or institution in violation of 42
18 U.S.C. §§2000cc2(b)(1). Defendants' denial of Plaintiffs' application for a
19 General Plan Amendment, Zoning Change, Site Plan, and CUP violates 42 U.S.C.
20 §§ 2000cc2(b)(1).

21
22 **FIFTH CAUSE OF ACTION**

23 **Violation of the Religious Land Use and Institutionalized Persons Act**

24 **Unreasonable Limitation**

25 **(42 U.S.C. § 2000cc et seq.)**

26 89. Plaintiffs reallege and replead all the allegations of the preceding
27 paragraphs of this Complaint and incorporate them here by reference.

28 90. Defendants have deprived and continue to deprive Plaintiffs of their right to

1 the free exercise of religion, as guaranteed under the RLUIPA, by imposing and
2 implementing a land use regulation that unreasonably limits religious assemblies
3 within a jurisdiction.

4 91. Defendant City has enacted the GGZO, which constitutes a land use
5 regulation. The GGZO facially excludes religious assemblies from its jurisdiction
6 or unreasonably limits religious assemblies, institutions, or structures within its
7 jurisdiction in violation of 42 U.S.C. §§2000cc2(b)(3). Defendants' denial of
8 Plaintiffs' application for a General Plan Amendment, Zoning Change, Site Plan,
9 and CUP violates 42 U.S.C. §§2000cc2(b)(3).

10
11 **SIXTH CAUSE OF ACTION**

12 **Violation of the United States Constitution**

13 **Free Speech: First and Fourteenth Amendments**

14 **(42 U.S.C. § 1983)**

15 92. Plaintiffs reallege and replead all the allegations of the preceding
16 paragraphs of this Complaint and incorporate them here by reference.

17 93. Defendants have deprived and continue to deprive Plaintiffs of their right to
18 speak on matters of religion, as guaranteed in the First Amendment to the United
19 States Constitution and made applicable to the States through the Fourteenth
20 Amendment, by discriminating against Plaintiffs based on the religious viewpoint
21 of their expression, by inhibiting their right to freely express their faith to their
22 congregants and to the community, and by applying vague statutes, ordinances and
23 regulations against them.

24 94. The GGZO and Defendant City's land use and zoning policies, both on their
25 face and as applied to Plaintiffs, abridge Plaintiffs' rights to freedom of speech
26 because they discriminate among speech and other expressive activity on the basis
27 of content, imposing restrictions on speech of religious content while speech of
28 non-religious content, even if expressed in the same time, place, and manner, is

1 not proscribed or regulated.

2 95. Defendants lack either a compelling or substantial legitimate governmental
3 interest in regulating speech and expression in the manner accomplished by the
4 GGZO.

5 96. The GGZO is not sufficiently narrowly tailored to serve any appropriate
6 governmental interest.

7 97. The GGZO and Defendant City's land use and zoning policies, both on their
8 face and as applied to Plaintiffs, abridge Plaintiffs rights to free speech because
9 they are substantially under-inclusive in that they improperly treat religious speech
10 disparately.

11 98. The GGZO and Defendant City's land use and zoning policies, both on their
12 face and as applied to Plaintiffs, abridge Plaintiffs' rights to free speech because
13 they constitute a license tax on the right to preach religious teachings.

14
15 **SEVENTH CAUSE OF ACTION**

16 **Violation of the California Constitution Art. I, § 2**

17 **Liberty Speech Clause**

18 99. Plaintiffs reallege and replead all the allegations of the preceding
19 paragraphs of this Complaint and incorporate them here by reference.

20 100. Defendants, acting under color of state law, have deprived and continue to
21 deprive Plaintiffs of their right to speak on matters of religion, as guaranteed under
22 Article I, Section 2 of the California Constitution, by discriminating against
23 Plaintiffs based on the religious viewpoint of their expression, by inhibiting their
24 right to freely express their faith to their congregants and to the community, and
25 by applying vague statutes, ordinances, and regulations against them.

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TENTH CAUSE OF ACTION

Violation of the United States Constitution

Freedom of Assembly: First and Fourteenth Amendments

(42 U.S.C. § 1983)

106. Plaintiffs reallege and replead all the allegations of the preceding paragraphs of this Complaint and incorporate them here by reference.

107. Defendants, acting under color of state law, have deprived and continue to deprive Plaintiffs of their right freely to assemble for the purposes of worship, as guaranteed under the First Amendment to the United States Constitution and made applicable to the States through the Fourteenth Amendment, by prohibiting Plaintiffs from worshiping in a location where similar, but nonreligious, groups would be permitted to assemble.

ELEVENTH CAUSE OF ACTION

Violation of the California Constitution Art. I, § 3

Freedom of Assembly

108. Plaintiffs reallege and replead all the allegations of the preceding paragraphs of this Complaint and incorporate them here by reference.

109. Defendants, acting under color of state law, have deprived and continue to deprive Plaintiffs of their right freely to assemble for the purpose of worship, as guaranteed under Article I, Section 3 of the California Constitution, by prohibiting Plaintiffs from worshiping in a location where similar, but nonreligious, groups would be permitted to assemble.

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TWELFTH CAUSE OF ACTION

Violation of the United States Constitution

Equal Protection: Fourteenth Amendment

(42 U.S.C. § 1983)

110. Plaintiffs reallege and replead all the allegations of the preceding paragraphs of this Complaint and incorporate them here by reference.

111. Defendants, acting under color of state law, have deprived and continue to deprive Plaintiffs of their right to equal protection of the laws, as guaranteed under the Fourteenth Amendment to the United States Constitution, by discriminating against Plaintiffs in their application of the laws of the State of California and the Garden Grove Municipal Code.

112. The GGZO and Defendant City's land use and zoning policies, amounts to a ban on churches, discriminatory treatment of religious institutions and an unreasonable restriction on the acquisition of property and/or buildings.

THIRTEENTH CAUSE OF ACTION

Violation of the California Constitution Art. I, § 7

Equal Protection

113. Plaintiffs reallege and replead all the allegations of the preceding paragraphs of this Complaint and incorporate them here by reference.

114. Defendants, acting under color of state law, have deprived and continue to deprive Plaintiffs of their right to equal protection of the laws, as guaranteed under Article I, Section 7 of the California Constitution, by discriminating against Plaintiffs in their application of the laws of the State of California and the Garden Grove Municipal Code.

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FOURTEENTH CAUSE OF ACTION

Constitutional Violations

(Hybrid - Free Exercise and Free Speech/Freedom of Assembly/Equal Protection)

115. Plaintiffs reallege and replead all the allegations of the preceding paragraphs of this Complaint and incorporate them here by reference.

116. The GGZO and Defendant City's land use and zoning policies, both on their face and as applied to Plaintiffs, abridge Plaintiffs' rights to free exercise of religion in conjunction with abridging Plaintiffs rights to free speech, freedom of assembly, and equal protection under the law. Such abridgment is not the result of a neutral and generally applicable law and has placed a substantial burden upon Plaintiffs' without compelling justification and was not narrowly tailored, in violation of Plaintiffs' First Amendment rights.

FIFTEENTH CAUSE OF ACTION

Violation of the United States Constitution

Due Process: Fourteenth Amendment

(42 U.S.C. § 1983)

117. Plaintiffs reallege and replead all the allegations of the preceding paragraphs of this Complaint and incorporate them here by reference.

118. Defendants, acting under color of state law, have deprived and continue to deprive Plaintiffs of due process of law, as guaranteed under the Fourteenth Amendment to the United States Constitution, by denying Plaintiffs use of their property based on an irrational and discriminatory motivation.

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SIXTEENTH CAUSE OF ACTION

Violation of the California Constitution Art. I, § 7

Due Process

119. Plaintiffs reallege and replead all the allegations of the preceding paragraphs of this Complaint and incorporate them here by reference.

120. Defendants, acting under color of state law, deprived and continue to deprive Plaintiffs of due process of law, as guaranteed under Article I, Section 7 of the California Constitution, by denying Plaintiffs use of their property based on an irrational and discriminatory motivation.

SEVENTEENTH CAUSE OF ACTION

Declaratory Relief

121. Plaintiffs reallege and replead all the allegations of the preceding paragraphs of this Complaint and incorporate them here by reference.

122. The GGZO are invalid and unenforceable, both on their face and as construed by Defendants, in that they violate the RLUIPA and the United States and California Constitutions.

123. An actual controversy exists between Plaintiffs and Defendants regarding Plaintiffs' rights under the GGZO. Such a declaration is necessary and appropriate. Plaintiffs desire a declaration as to the validity of the GGZO, both on its face and as applied to Plaintiffs' activities, and if it is found to be valid, whether Defendants applied the GGZO in a discriminatory manner.

124. A judicial declaration is necessary and appropriate at this time so that Plaintiffs may ascertain their rights and duties in the Subject Property without first subjecting themselves to liability for violation of the zoning ordinances.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court grant the

1 following relief:

2 A. A permanent injunction restraining Defendants, their officers, agents,
3 employees, and attorneys from enforcing or endeavoring to enforce the GGZO to
4 prohibit Plaintiffs from building a temple and using the Subject Property in
5 Garden Grove as a place of worship;

6 B. A declaration that the application of the GGZO so as to exclude
7 Plaintiffs from developing or using the Subject Property for religious purposes, is
8 void, invalid and unconstitutional as violating the Free Exercise and Free Speech
9 protections of the United States and California Constitutions; the right to assemble
10 freely as protected by the United States and California Constitutions; the right to
11 Equal Protection and Due Process of the law as protected by the United States and
12 California Constitutions; and Plaintiffs' rights under the RLUIPA.

13 C. General damages according to proof;

14 D. Special damages according to proof;

15 E. Punitive damages according to proof;

16 F. For the costs of suit;

17 G. For an award of reasonable attorney fees to counsel for Plaintiffs; and

18 H. For other equitable or legal relief that the Court considers just and
19 proper.

20

21 DATED: August 9, 2006

ACLU FOUNDATION OF SOUTHERN
CALIFORNIA

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By: 
BELINDA ESCOBOSA HELZER

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Attorneys for Plaintiffs

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