

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CHABAD LUBAVITCH OF THE BEACHES,
INC.,

Plaintiff,

v.

INCORPORATED VILLAGE OF ATLANTIC
BEACH; MAYOR GEORGE PAPPAS;
EDWARD A. SULLIVAN; LINDA L.
BAESSLER; ANDREW J. RUBIN; and
PATRICIA BEAUMONT,

Defendants.

Civil Action No. 2:22-cv-04141

JURY TRIAL REQUESTED

INTRODUCTION

1. In November 2021, Chabad Lubavitch of the Beaches (“Chabad of the Beaches”)—an organization affiliated with the Hasidic Jewish movement Chabad Lubavitch—purchased 2025 Park Street in Atlantic Beach, New York to open a center for conducting Jewish worship, education, and other forms of outreach to the Jewish community central to Chabad Lubavitch’s mission of deepening Jews’ commitment to Judaism.

2. At the time of Chabad of the Beaches’ purchase, 2025 Park Street, which is located less than one block from Atlantic Beach’s town hall, had been unoccupied for several years and had been available for lease or sale for nearly two years. During the

entire period 2025 Park Street was on the market, officials from Atlantic Beach never once offered to purchase the property.

3. However, less than a month after Chabad of the Beaches' purchase—and less than two weeks after Chabad of the Beaches held an outdoor menorah lighting at 2025 Park Street to celebrate Hannukah—Atlantic Beach officials suddenly, and without explanation, decided not only that they needed the property to build a community center, lifeguard operations center, and park, but also that this need was so exigent that Atlantic Beach had to seize 2025 Park Street and a neighboring property through eminent domain.

4. In January 2022, at the public hearing required under New York's Eminent Domain Procedure Law, Atlantic Beach residents raised numerous questions and concerns about the Village's plans. Some questioned the need for a community center when the town hall had been intended to serve that purpose and had staff and space to host gatherings.

5. Some asked why Atlantic Beach did not just build the desired facilities on one of the several vacant lots it already owned, two of which were directly across the street from the existing recreational center, closer to the beach than 2025 Park Street, and—unlike 2025 Park Street—adjacent to parking.

6. And some residents questioned the officials' true motives, noting that the only thing that had changed between when the officials showed no interest in 2025 Park Street and when they decided they had to seize it was the property's purchase by Chabad of the Beaches, a Hasidic Jewish organization.

7. At no point during the public hearing, and at no point since, have Atlantic Beach officials publicly answered these questions.

8. Nevertheless, in February 2022, Atlantic Beach officials voted to oust Chabad of the Beaches from 2025 Park Street by taking the property through eminent domain. The Village's petition to take title to the property is currently pending in the New York Supreme Court, though as of the date of this complaint, the Village has yet to make any offer of compensation.

9. Under the Constitution and laws of the United States, Atlantic Beach's targeted use of eminent domain against Chabad of the Beaches cannot stand.

10. The actions of Atlantic Beach and its officials violate Chabad of the Beaches' rights under the Free Exercise Clause and Establishment Clause of the First Amendment, the Takings Clause of the Fifth Amendment, the Equal Protection Clause of the Fourteenth Amendment, and the Religious Land Use and Institutionalized Persons Act. Those actions discriminate against Chabad of the Beaches on the basis of religion, advance no compelling government interest, and are far from the least restrictive means of advancing the Village's purported – albeit pretextual – goals.

11. Chabad of the Beaches accordingly seeks declaratory and injunctive relief to prevent Atlantic Beach from violating its fundamental rights by abusively using eminent domain to take its property.

JURISDICTION AND VENUE

12. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 because this action arises under the Constitution and laws of the United States.

13. This Court has authority to issue the relief sought pursuant to 28 U.S.C. §§ 1343(a), 2201, and 2202 and 42 U.S.C. §§ 1983, 1988, and 2000cc-2.

14. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(1) and (2). All Defendants maintain offices and perform their official duties in this district, a substantial part of the events giving rise to the claims occurred in this district, and a substantial part of property that is the subject of the action is situated in this district.

PARTIES

15. Plaintiff Chabad Lubavitch of the Beaches, Inc. is a non-profit religious organization affiliated with Chabad Lubavitch, a worldwide Hasidic movement. Plaintiff's principal location is 570 West Walnut, Long Beach, NY 11561, where it operates a center for Jewish life that serves the Jewish communities of Long Beach, Lido Beach, and Atlantic Beach by promoting and strengthening Jewish awareness, observance, and community through religious, educational, cultural, and social activities.

16. Defendant Incorporated Village of Atlantic Beach ("Village" or "Atlantic Beach") is an incorporated community on Long Beach Barrier Island in Nassau County, New York. The Village maintains an office at 65 The Plaza, Atlantic Beach, NY 11509.

17. Defendant George J. Pappas is mayor of the Village of Atlantic Beach, in which capacity he voted to authorize the Village's taking of Chabad's property through eminent domain.

18. Defendants Edward A. Sullivan, Linda L. Baessler, Andrew J. Rubin, and Patricia Beaumont are trustees of the Village of Atlantic Beach, in which capacities they voted to authorize the Village's taking of Chabad's property through eminent domain.

FACTS

19. Chabad Lubavitch is a branch of Hasidic Judaism founded in the late eighteenth century by Rabbi Schneur Zalman. The word "Chabad" is an acronym for the Hebrew words *chochmah* (wisdom), *binah* (comprehension), and *da'at* (knowledge). "Lubavitch" is the Yiddish word for Lyubavichi, the Russian village where the Chabad Lubavitch movement was based for nearly a century.

20. Following World War I, to escape persecution by the Bolsheviks, Chabad Lubavitch moved its center first to Riga, Latvia, and then to Warsaw, Poland. In 1940, with the outbreak of World War II, the movement's leadership moved once again, this time to the United States. Since then, Chabad Lubavitch has been headquartered in the Crown Heights neighborhood of Brooklyn.

21. Adherents of Chabad Lubavitch strictly observe Jewish law, known as *halakha*.

22. One of Chabad Lubavitch's central tenets is outreach to the broader Jewish world, including non-Orthodox and secular Jews. At the heart of Chabad Lubavitch's commitment to outreach is the principle of *Ahavat Yisrael*—love of all Jews.

23. Chabad Lubavitch carries out its mission of Jewish outreach principally through emissaries known as *shluchim*. *Shluchim* are husband-and-wife teams who, as young married couples, permanently move to areas with a Jewish presence to set up Chabad Houses, from which they conduct a wide range of outreach activities to the broader Jewish community. Such activities, which may vary from Chabad House to Chabad House, generally include religious services, Torah study, religious instruction, and holiday celebrations. They may also include running Jewish day schools, summer camps, after-school programs, or social service organizations.

24. Through these outreach activities, Chabad Lubavitch aims to bring Jews closer to God and their Jewish heritage and to strengthen Jews' commitment to Judaism. This goal is known as *kiruv*, a term derived from the Hebrew word for "bringing close," and Chabad Lubavitch's emphasis on outreach, especially through its *shluchim*, is known as the Kiruv Movement.

25. Today, Chabad Lubavitch is one of the most influential and far-reaching Jewish organizations in the world, with over 2,000 emissary families in the United States, over 5,000 worldwide, and over 3,500 institutions located in over 100 countries.

26. Plaintiff Chabad of the Beaches was founded 17 years ago by *shluchim* Rabbi Eli and Beila Goodman to serve the Jewish population of Long Beach Barrier Island and the surrounding towns.

27. Long Beach Barrier Island is an approximately 10-mile wide island running along the southern coast of Long Island. From west to east, Long Beach Barrier Island comprises the communities of Atlantic Beach, Long Beach, and Lido Beach. Atlantic

Beach sits across a narrow waterway from, and is connected by a bridge to, the Long Island mainland.

28. Chabad of the Beaches currently operates a center for Jewish life in Long Beach offering a wide range of religious, educational, cultural, and social programming to the Jewish community of Long Beach Barrier Island. In addition to running a synagogue, Chabad of the Beaches runs a Hebrew school, adult Jewish education programs, young Jewish professional events, programming for Jewish teens, and women's programming.

29. Last fall, to expand its offerings for the local community, Chabad of the Beaches purchased a property located at 2025 Park Street (the "Property" or "2025 Park Street") in Atlantic Beach for \$950,000. The 9,995 square-foot property – which is down the block from the Village offices at 65 The Plaza, Atlantic Beach – houses a 1,698 square-foot building that was formerly a Capital One bank. Chabad of the Beaches' deed was recorded on November 18, 2021 in the Nassau County Clerk's Office.

30. When Chabad of the Beaches purchased the Property, it had been vacant for at least three years and for lease and/or sale since December 2019. During the bulk of that time, the Property had "For Sale" signs posted in its front yard, facing Park Street and Albany Street. The Property had also been listed for sale on MLS, as well as Zillow, Redfin, and other real estate websites.

31. An image of the Property from Google maps, taken while the Property was for sale, is included below:

FIGURE 1



32. During the entire time that the Property was listed for sale, the Village never made an offer to purchase the Property from its then-owner.

33. Chabad of the Beaches acquired the Property with the intent of opening a Chabad House offering religious services, religious education, and other Jewish outreach activities. In addition to using the Property to expand its religious, educational, and social programming, Chabad of the Beaches planned to use the Property to provide kosher food for the Jewish community.

34. As is common at other Chabad Houses around the country, Chabad of the Beaches also planned to make the Property available to the broader Atlantic Beach community as a space for meetings and gatherings, when it was not in use for religious purposes.

35. Rabbi Goodman selected the property because of its location at the foot of the bridge that serves as the main entry point to Long Beach Barrier Island. By virtue of its high visibility to the residents of the barrier island, this location promised to promote awareness of Chabad of the Beaches among the island's large Jewish population,

especially among secular and unaffiliated Jews who might not otherwise know of Chabad of the Beaches' presence.

36. On December 2, 2021, two weeks after completing its purchase of the Property, Chabad of the Beaches held a menorah lighting at the Property to celebrate Hannukah.

37. For 17 years, Chabad of the Beaches has held annual menorah lightings in neighboring Long Beach, which that town's elected officials have consistently attended.

38. Consistent with that practice, in advance of the menorah lighting at 2025 Park Street, Rabbi Goodman emailed Atlantic Beach's official account to invite Mayor Pappas to light the center candle "to bring blessing and light to the Village of Atlantic Beach and the entire Barrier Island."

39. At the ceremony on December 2, participants lit a twelve-foot menorah and sang religious songs. But, despite the invitation, no Atlantic Beach officials attended.

40. Upon information and belief, Mayor Pappas either watched the lighting from a distance or heard about the ceremony from local residents.

41. Upon information and belief, in response to complaints about the ceremony, Mayor Pappas stated that he had a plan to prevent Chabad of the Beaches from remaining in Atlantic Beach.

42. Mere days later, on December 13, 2021, the mayor had put his plan into action. That evening, the Village's Board of Trustees (the Village's governing body, comprising the mayor and four trustees) unanimously adopted a resolution to begin the process of seizing the Property and the neighboring lot at 2035 Park Street by eminent

domain (collectively, the “Park Street Properties”). The trustees and mayor set January 10, 2022, as the date to hold a public hearing on the issue.

43. In published notices of the upcoming hearing, the Village announced its intention to use the Park Street Properties as a “recreation facility, community center and lifeguard beach operations facility.”

44. The Village held the public hearing as scheduled, on January 10, 2022.

45. At the hearing, the Village’s attorney, Joshua Rikon, stated that the Village planned to use the Property as a “recreational facility and community center with lifeguard beach operations,” and to use the neighboring parcel as a community park. *See* Ex. 1 at 9:8–15.

46. Mr. Rikon further stated that “[n]o alternative locations were considered for the project.” *Id.* at 9:15–16.

47. The Village’s preference for having recreational facilities instead of a religious institution at the Property reflects official Village policy. One current Atlantic Beach zoning ordinance, in particular, regulates “religious and educational uses” to address “the concerns of the surrounding Village inhabitants about the potential adverse effects on the quality of life that these uses may engender.” § 250-108.1(A)(1).¹ The ordinance aims to regulate religious uses with a purported “net negative impact on the surrounding neighborhood.” § 250-108.1(A)(2). To that end, it requires “[a] house of worship or other place regularly and primarily devoted to religious practice,” § 250-

¹ The Village zoning ordinance is available at <https://ecode360.com/7204110>.

108.1(B), to apply for a special permit before establishing or expanding a religious use in the Village, § 250-108.1(A)(3) and § 250-108.1(C)(1). It notes that the Village Board of Appeals may deny such an application if it believes that a proposed religious use “will sufficiently detract from the public’s health, safety, welfare or morals.” § 250-108.1(A)(4). And this could include everything from “[a] substantial adverse effect on surrounding property values” to “[a]ny other negative impact.” § 250-108.1(D)(4)(b), (e).

48. At the January 10 hearing, several residents of Atlantic Beach voiced concerns about the Village’s plans. Multiple residents, for example, asked how the Village planned to pay for acquiring the two parcels and building the proposed facilities. Ex. 1 at 16:21–17:17, 36:2–9, 53:10–12. One speaker, a former comptroller for Long Beach, stated that “financially this is not a sound idea.” *Id.* at 51:14–15.

49. Several residents also questioned why the Village chose to locate a community center on two parcels it needed to acquire through condemnation, rather than at one of several suitable sites it already owned. *Id.* at 18:17–19:21, 48:4–10. They also questioned the need for a community center by noting that when the Village Hall was built, that building “was supposed to be the community center” and currently had both staff and space to serve that function. *Id.* at 20:22–21:6; *see id.* at 48:14–15, 49:10–12.

50. Another resident questioned where visitors would park and noted that placing a park for “little kids . . . right next to a main street . . . doesn’t make any sense.” *Id.* at 30:8–12. Several other speakers echoed the latter concern, observing that 2035 Park Street “doesn’t look like an ideal location to have a park” given that “[e]verybody knows about the speeding problems on Park Street.” *Id.* at 38:2–4; *see also id.* at 45:18–46:9.

51. Other residents commented on the conspicuous absence of formal plans—such as detailed renderings or designs—of the proposed park and community center, despite the Village leadership’s determination to move forward to take the properties. A resident, who worked as an Atlantic Beach lifeguard, noted that there had been “no discussion as to what services [the Village’s community center] would provide.” *Id.* at 31:25–32:14. Other speakers raised similar concerns, asking “where are these plans of the community center?” and “[w]hy isn’t something displayed here to show me what you’re talking about?,” *id.* at 52:9–12, and criticizing the fact that “we don’t have any specific proposals and we can’t ask questions about the price with the acquisition method and . . . what the specifics are for the place,” *id.* at 37:19–24.

52. Several residents also raised concerns about the Village’s motivations. For example, one resident observed that the Property “wasn’t interesting for the Village to buy it during those two years” it was on sale, and only attracted the Village’s interest “after the Chabad bought it.” *Id.* at 24:6–11. Another worried about “this subtext about Chabad having purchased the property,” *id.* at 38:19–21, while a third described the Village’s actions as “so suspicious,” *id.* at 49:23.

53. At the hearing, neither the mayor nor any trustee nor the Village’s attorney offered any answers or responses to the questions and concerns speakers had raised.

54. Those questions and concerns, however, are well grounded.

55. As several speakers at the public hearing noted, the Village itself owns multiple parcels of land equally if not better suited to a community center.

56. For example, as illustrated below, in Figure 2, the Village owns two sizable plots near the Park Street Properties. Both plots are nearer to the beach than the Park Street Properties – indeed, one is beachfront – making them a more logical place to build a lifeguard operations center; both are centrally located in Atlantic Beach, within a block of the Park Street Properties; both already have adjacent parking, something the Park Street Properties lack; and neither is located along as busy a roadway as Park Street. In addition, on information and belief, the beachfront plot is nearly double the combined size of the Park Street Properties.

FIGURE 2



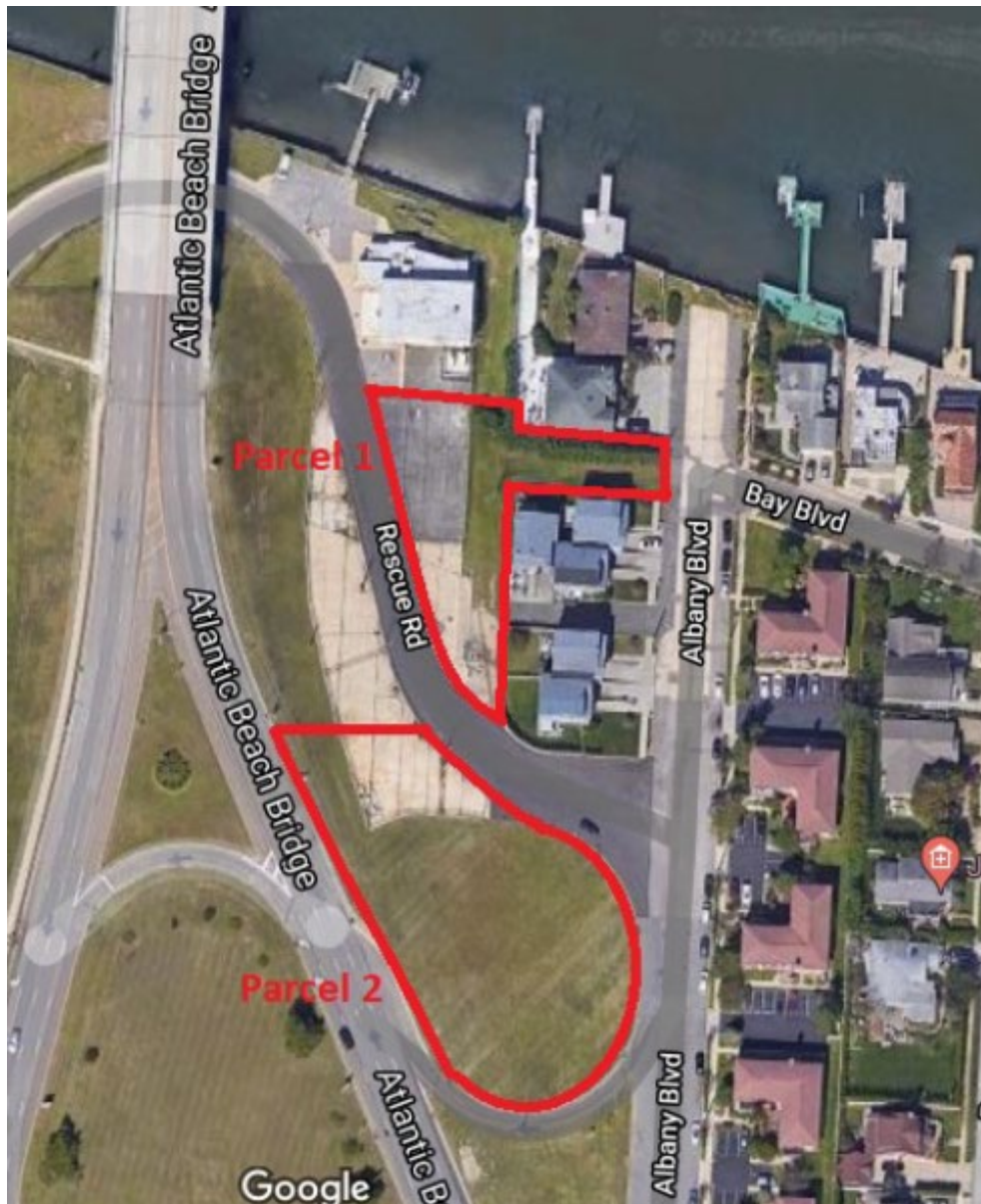
57. There are also several other plots of land in Atlantic Beach well-suited to the Village's purported plans. For example, there are multiple plots comprising undeveloped land and/or parking lots located along Ocean Boulevard, in the vicinity of the Village's beachfront plot, as shown below in Figure 3.

FIGURE 3



58. In addition, there are several acres of undeveloped land adjacent to the Atlantic Beach Bridge and Atlantic Beach Fire Station, as shown below in Figure 4, which on information and belief are owned by Nassau County.

FIGURE 4



59. And, as still another option, there is a nearly 3-acre undeveloped property at the intersection of Bay Boulevard and Hamilton and Ithaca Avenues, as shown below in Figure 5. On information and belief, this property is owned by Nassau County or one of its instrumentalities.

FIGURE 5



60. Because the Village already owns some of these properties, it could at any time have built a community center, lifeguard operations center, and/or park on any of them at much lower expense and without having to undertake lengthy and intrusive eminent domain proceedings.

61. Similarly, on information and belief, the Village could have purchased or leased the undeveloped properties it does not own at much lower expense than is required to take the Park Street Properties.

62. But as its attorney acknowledged at the public hearing, the Village did not consider condemning, purchasing, or leasing these or any other parcels as alternatives to condemning the Property.

63. In the aftermath of the public hearing, several members of the Facebook group “Village of Atlantic Beach Residents,” which on information and belief includes Mayor Pappas, expressed openly hostile attitudes towards Chabad. Comments included:

- a. “Chabad’s first foray into this community was an unlawful, disrespectful and thoughtless religious celebration for their supporters (the majority of whom are not residents). Perhaps their actions contributed to the sentiment that many of the AB residents do not want or need Chabad.”
Ex. 2.
- b. “Let’s be real. The Atlantic Beach community and the Chabad community are two very different things. Atlantic Beach has been affected by religious agendas for far too long.... The orthodox systematically took over our once excellent school district. Piece by piece.” Ex. 3.
- c. “Are they going to have a Christmas event for the local kids? I am sure they won’t.... I have friends who live in a Chabad block and their lives are constantly disrupted. I bet there will be a preschool (mostly attended by children from across the bridge), religious classes, prayer sessions etc. Let’s be real, NOT inclusive.” Ex. 4.
- d. “I don’t agree with Chabad coming into this village and changing the dynamic here. Because that is what will happen.... Chabad coming in and trampling all over our beautiful village.” Ex. 5.

64. Sadly, these comments bore an echo of the opposition of some Village residents, three decades prior, to the construction of an eruv² in Atlantic Beach. At that time, several residents told the *New York Times* that an eruv would lead to the “ghettoization” of the Village as Orthodox Jews moved in from surrounding neighborhoods. One resident, a then-trustee of the Village, told the *Times*, “We are a small, varied community which has now opened up to a group that has narrowly defined interests. We are not comfortable with the eruv.” Ex. 6.

65. On February 14, 2022, the Village Board voted to proceed with taking both 2025 Park Street and 2035 Park Street through eminent domain. The minutes of the February 14 meeting reflect that at no point during the meeting did any Village official or representative address the questions and concerns expressed at the January 10 hearing regarding the Village’s plans.

66. The Village Board is the final policy maker for the Village, and its decision to take Chabad of the Beaches’ property constitutes the final policymaking authority.

67. On June 14, 2022, pursuant to § 402 of the New York Eminent Domain Procedural Law (EDPL), the Village filed a petition to acquire fee title to the Property, setting a hearing date of July 14, 2022, “or as soon thereafter as counsel can be heard.”

68. At no point has the Village ever made an offer of just compensation to Chabad for the Property.

² An eruv is a symbolic boundary that permits observant Jews to carry certain items on the Sabbath and holidays that Jewish law would otherwise forbid them to carry. An eruv typically consists of a string of fishing line running between utility poles, and is usually not noticeable unless one is specifically looking for it.

69. At no point has the Village explained why it would not be practicable to have made the offer prior to acquiring the Property, as contemplated by the EDPL. *See* N.Y. Em. Dom. Proc. Law § 303 (“Wherever practicable, the condemnor shall make the offer prior to acquiring the property and shall also wherever practicable, include within the offer an itemization of the total direct, the total severance or consequential damages and benefits as each may apply to the property.”).

70. At all times relevant to this action, Defendants were acting under the color of state law by exercising the quintessentially governmental power of eminent domain.

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

First and Fourteenth Amendments – Free Exercise Clause

(42 U.S.C. § 1983)

71. Plaintiff incorporates the preceding paragraphs by reference as if fully set forth herein.

72. The Free Exercise Clause of the First Amendment, made applicable to the states through the Fourteenth Amendment, prohibits any state action abridging the free exercise of religion.

73. A state action that discriminates on the basis of religion is subject to strict scrutiny, and must be invalidated unless it is “justified by a compelling interest and is narrowly tailored to advance that interest.” *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 533 (1993).

74. Strict scrutiny also applies to state action that burdens the exercise of religion and that is not generally applicable. State action that represents individualized assessments, made at government officials' discretion, is not generally applicable. *See Fulton v. City of Philadelphia*, 141 S. Ct. 1868, 1877 (2021).

75. Animus toward the free exercise of religion is a violation of the Free Exercise Clause. *Kennedy v. Bremerton Sch. Dist.*, No. 21-418, 2022 WL 2295034, at *9 n.1 (U.S. June 27, 2022) ("A plaintiff may also prove a free exercise violation by showing that 'official expressions of hostility' to religion accompany laws or policies burdening religious exercise; in cases like that we have 'set aside' such policies without further inquiry.").

76. Chabad of the Beaches purchased 2025 Park Street to serve as a center for religious worship, religious education, and other forms of outreach to the Jewish community central to Chabad of the Beaches' religious mission. Indeed, Chabad of the Beaches has already used the Property for this purpose by hosting a menorah lighting there to celebrate Hannukah.

77. Defendants' decision to take the Property by eminent domain violates Chabad of the Beaches' right to the free exercise of religion in at least two ways.

78. *First*, Defendants' decision targets Chabad of the Beaches due to religious animus and fails to satisfy strict scrutiny.

79. Defendants could have purchased 2025 Park Street at any point during the years it was vacant and available for lease or sale. Yet it was only after Plaintiff purchased

the Property and held a public celebration of Hannukah that Defendants, within just two weeks, decided to take the Property by eminent domain.

80. Defendants' decision to condemn the Property substantially burdens Chabad of the Beaches' free exercise of religion by preventing Chabad of the Beaches from using the Property for Jewish worship, Jewish education, and other religious activities.

81. Defendants' purported interest in building a community and lifeguard operations center is pretextual and, in any event, does not constitute a compelling interest.

82. Furthermore, even if Defendants' interest in building a community and lifeguard operations center were a compelling governmental interest, taking Plaintiff's property is not the least restrictive means of achieving that interest.

83. As described above, any number of other parcels in the Village—including two owned by the Village itself—are equally if not better suited than the Park Street Properties for its purported plans, and several other suitable parcels are available as well.

84. Yet, as the Village's eminent domain counsel admitted, the Village did not even consider alternatives to taking the Property.

85. *Second*, Defendants' decision constitutes non-generally applicable state action that substantially burdens Plaintiff's religious exercise and fails strict scrutiny for the same reasons set forth above.

86. Defendants' decision is not generally applicable because in exercising the authority to take property by eminent domain, Defendants had discretion to make

individualized assessments. Specifically, Defendants had the power to target certain parcels (or not), to adjust their plans in response to public comments (or not), and to exempt specific parcels from government action (or not). Here, Defendants exercised such discretion throughout the condemnation process and decided to target—not exempt—Chabad of the Beaches’ property.

87. As a direct and proximate result of Defendants’ conduct, Chabad of the Beaches has suffered and will continue to suffer irreparable harm, including the loss of its constitutional rights, entitling it to declaratory and injunctive relief, and attorneys’ fees.

SECOND CAUSE OF ACTION

First and Fourteenth Amendments – Establishment Clause

(42 U.S.C. § 1983)

88. Plaintiff incorporates the preceding paragraphs by reference as if fully set forth herein.

89. The Establishment Clause of the First Amendment, made applicable to the states through the Fourteenth Amendment, prohibits governmental hostility to religion.

90. The use of eminent domain to take the Property in furtherance of a plan conceived in religious animus is the sort of “removal . . . [that] would be seen by many not as a neutral act but as the manifestation of ‘a hostility toward religion that has no place in our Establishment Clause traditions.’” *Am. Legion v. Am. Humanist Ass’n*, 139 S. Ct. 2067, 2074 (2019) (quoting *Van Orden v. Perry*, 545 U.S. 677, 704 (2005) (Breyer, J., concurring in judgment)).

91. Defendants' pretextual taking of the Property due to their hostility to Chabad of the Beaches' religion constitutes hostility to religion in violation of the Establishment Clause.

92. As a direct and proximate result of Defendants' conduct, Chabad of the Beaches has suffered and will continue to suffer irreparable harm, including the loss of its constitutional rights, entitling it to declaratory and injunctive relief, and attorneys' fees.

THIRD CAUSE OF ACTION

Fourteenth Amendment – Equal Protection

(42 U.S.C. § 1983)

93. Plaintiff incorporates the preceding paragraphs by reference as if fully set forth herein.

94. The Equal Protection Clause of the Fourteenth Amendment forbids state action that discriminates on the basis of religion.

95. State action violates the Equal Protection Clause when, based on a protected characteristic of a party, such as religion, it treats that party differently from other similarly situated parties and is not narrowly tailored to achieving a compelling government interest.

96. Defendants' decision to take the Property by eminent domain discriminates against Plaintiff based on its religious beliefs.

97. Within Atlantic Beach are several similarly situated, undeveloped or minimally developed parcels – including several owned by the Village itself – that would serve the Village’s purported purposes as well as, if not better than, Plaintiff’s Property.

98. Defendants, however, did not even consider condemning or using any similarly situated parcels, even though doing so would have cost less than seizing Plaintiff’s Property.

99. Targeting the property of Chabad of the Beaches in this manner is a denial of equal protection of the law. The Village treated Chabad of the Beaches worse than similarly situated property owners, in a manner demonstrating intent to discriminate against Chabad of the Beaches’ use of property for religious purposes.

100. For the reasons set forth above, Defendants’ discriminatory treatment of Chabad of the Beaches neither serves a compelling governmental interest nor is the least restrictive means of achieving Defendants’ purported ends.

101. As a direct and proximate result of Defendants’ conduct, Chabad of the Beaches has suffered and will continue to suffer irreparable harm, including the loss of its constitutional rights, entitling it to declaratory and injunctive relief, and attorneys’ fees.

FOURTH CAUSE OF ACTION

Fifth and Fourteenth Amendments – Takings Clause

(42 U.S.C. § 1983)

102. Plaintiff incorporates the preceding paragraphs by reference as if fully set forth herein.

103. The Takings Clause of the Fifth Amendment, made applicable to the states through the Fourteenth Amendment, bars the government from depriving private persons of property without a legitimate public use.

104. Defendants have deprived, and are continuing to deprive, Chabad of the Beaches of its Fifth Amendment rights by failing to establish the requisite “public use” for the taking the Property.

105. Defendants have violated Chabad of the Beaches’ rights under the Takings Clause because their purported public purpose for taking the Property is pretextual, and their true purpose is to prevent Chabad of the Beaches from operating in a highly visible location at the entrance to the Village.

106. As a direct and proximate result of Defendants’ Takings Clause violation, Chabad of the Beaches has suffered and will continue to suffer irreparable harm, including the loss of its constitutional rights, entitling it to declaratory and injunctive relief, and attorneys’ fees.

FIFTH CAUSE OF ACTION

Religious Land Use and Institutionalized Persons Act – Substantial Burden

(42 U.S.C. § 2000cc(a))

107. Plaintiff incorporates the preceding paragraphs by reference as if fully set forth herein.

108. Under the Religious Land Use and Institutionalized Persons Act (RLUIPA), the government may not “impose or implement a land use regulation in a manner that imposes a substantial burden” on religious exercise, unless it shows that

imposing that burden is the “least restrictive means” of furthering a “compelling” interest. 42 U.S.C. § 2000cc(a)(1).

109. Defendants’ decision to take Chabad of the Beaches’ Property by eminent domain constitutes a land use regulation under RLUIPA. Specifically, Defendants’ decision to exercise eminent domain to seize Chabad’s Property is being done as a proxy for applying the Village’s zoning ordinance regulation curtailing religious land uses. The application of the Village’s zoning ordinance by seizing the Property will limit or restrict Chabad of the Beaches’ use or development of the Property.

110. For purposes of RLUIPA, Defendants have burdened Chabad of the Beaches’ religious exercise by imposing or implementing a “land use regulation” that involves “individualized assessments of the proposed uses for the property involved.” 42 U.S.C. § 2000cc(a)(2)(C). In deciding to take Plaintiff’s Property by eminent domain, Defendants have made individualized assessments about how specific parcels may be used and which parcels to take through government action.

111. Defendants’ taking substantially burdens Chabad of the Beaches’ religious exercise by preventing Chabad of the Beaches from using the Property for religious worship, religious education, and other activities central to its religious mission.

112. The substantial burden imposed by Defendants’ actions will prevent Chabad from engaging in activities that will affect interstate and foreign commerce.

113. As set forth above, no compelling interest justifies this substantial burden on Plaintiffs. Defendants’ purported interest in building a community center and

lifeguard operations facility is pretextual, and, even if it were genuine, would not constitute a compelling government interest.

114. Furthermore, as set forth above, taking the Property is not the “least restrictive means” of achieving Defendants’ purported interest. There are numerous similarly situated parcels offering better, safer, cheaper, and more convenient locations for a community center, yet by Defendants’ own admission, they did not consider any as alternatives to taking the Property from Chabad of the Beaches.

115. As a direct and proximate result of Defendants’ RLUIPA violation, Chabad of the Beaches has suffered and will continue to suffer irreparable harm, including the loss of its statutorily protected rights, entitling it to declaratory and injunctive relief, and attorneys’ fees.

SIXTH CAUSE OF ACTION

Religious Land Use and Institutionalized Persons Act – Discrimination

(42 U.S.C. § 2000cc(b))

116. Plaintiff incorporates the preceding paragraphs by reference as if fully set forth herein.

117. Under RLUIPA, the government may not “impose or implement a land use regulation that discriminates against any assembly or institution on the basis of religion or religious denomination.” 42 U.S.C. § 2000cc(b)(2).

118. As set forth above, Defendants’ decision to take the Property by eminent domain constitutes a “land use regulation” for purposes of RLUIPA. *Id.*

119. Defendants' decision to take the Property violates RLUIPA because it discriminates against Chabad of the Beaches on the basis of its religion and religious practices.

120. As a direct and proximate result of Defendants' RLUIPA violation, Chabad of the Beaches has suffered and will continue to suffer irreparable harm, including the loss of its statutorily protected rights, entitling it to declaratory and injunctive relief, and attorneys' fees.

PRAYER FOR RELIEF

Chabad of the Beaches respectfully asks the Court to:

1. Declare that Defendants' decision to take Plaintiff's Property violates Plaintiff's rights under the First, Fifth, and Fourteenth Amendments and under RLUIPA;
2. Enjoin Defendants from taking any further steps to take Plaintiff's Property through eminent domain proceedings;
3. Award nominal damages to Plaintiff;
4. Award actual damages to Plaintiff;
5. Award Plaintiff attorney's fees and costs under 42 U.S.C. § 1988;
6. Award such other relief as the Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiff demands a trial by jury, pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, of all issues so triable.

Dated: July 14, 2022

/s/ David M. Rody
David M. Rody
SIDLEY AUSTIN LLP
787 Seventh Avenue
New York, NY 10019
(212) 839-5951
drody@sidley.com

Gordon D. Todd (*pro hac vice forthcoming*)
Daniel J. Feith (*pro hac vice forthcoming*)
Peter A. Bruland (*pro hac vice forthcoming*)
Robert M. Smith (*pro hac vice forthcoming*)
SIDLEY AUSTIN LLP
1501 K Street NW
Washington, D.C. 20005
(202) 736-8760
gtodd@sidley.com
dfeith@sidley.com
pbruland@sidley.com
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David J. Hacker (*pro hac vice forthcoming*)
Justin E. Butterfield (*pro hac vice forthcoming*)
Jeremiah G. Dys (*pro hac vice forthcoming*)
Ryan N. Gardner (*pro hac vice forthcoming*)
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2001 W. Plano Parkway, Suite 1600
Plano, TX 75075
(469) 440-7585
dhacker@firstliberty.org
jbutterfield@firstliberty.org
jdys@firstliberty.org
rgardner@firstliberty.org

Kelsey M. Flores (*pro hac vice forthcoming*)
Joshua C. McDaniel (*pro hac vice forthcoming*)
HARVARD LAW SCHOOL
RELIGIOUS FREEDOM CLINIC
6 Everett St. WCC-5110
Cambridge, MA 02138
(617) 384-0103
keflores@law.harvard.edu
jmcdaniel@law.harvard.edu

*Counsel for Plaintiff Chabad Lubavitch of the
Beaches, Inc.*

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

CHABAD LUBAVITCH OF THE BEACHES, INC.

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

David M. Rody, SIDLEY AUSTIN LLP, 787 Seventh Avenue, New York, NY 10019 (212) 839-5951

DEFENDANTS

INCORPORATED VILLAGE OF ATLANTIC BEACH; MAYOR GEORGE PAPPAS; EDWARD A. SULLIVAN; LINDA L BAESSLER; ANDREW J. RUBIN; and PATRICIA BEAUMONT

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

Does this action include a motion for temporary restraining order or order to show cause? Yes [X] No []

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, PRISONER PETITIONS, TORTS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 42 U.S.C. §2000cc(a)-(b), 42 U.S.C. §1983

Brief description of cause: Bringing First, Fifth, and Fourteenth Amendment claims along with claims under RLUIPA in opposition to land condemnation

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: [X] Yes [] No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

7/14/2022 /s/ David M. Rody

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.7 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

Case is Eligible for Arbitration

I, David M. Rody, counsel for plaintiff, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- the complaint seeks injunctive relief,
- the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:
N/A. See separate Rule 7.1 Corporate Disclosure Statement

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? Yes No
- 2.) If you answered "no" above:
 - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? Yes No
 - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes No
 - c) If this is a Fair Debt Collection Practice Act case, specify the County in which the offending communication was received:

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? Yes No

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

Yes No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

Yes (If yes, please explain) No

I certify the accuracy of all information provided above.

Signature: /s/ David M. Rody

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

CHABAD LUBAVITCH OF THE BEACHES, INC.

Plaintiff(s)

v.

INCORPORATED VILLAGE OF ATLANTIC BEACH;
MAYOR GEORGE PAPPAS; EDWARD A.
SULLIVAN; LINDA L. BAESSLER; ANDREW J.
RUBIN; and PATRICIA BEAUMONT

Defendant(s)

Civil Action No. 2:22-cv-04141

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Incorporated Village of Atlantic Beach
65 The Plaza
Atlantic Beach, NY 11509

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you
are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ.
P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of
the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney,
whose name and address are: David M. Rody
SIDLEY AUSTIN LLP
787 Seventh Avenue
New York, NY 10019

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint.
You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. 2:22-cv-04141

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

CHABAD LUBAVITCH OF THE BEACHES, INC.

Plaintiff(s)

v.

INCORPORATED VILLAGE OF ATLANTIC BEACH;
MAYOR GEORGE PAPPAS; EDWARD A.
SULLIVAN; LINDA L. BAESSLER; ANDREW J.
RUBIN; and PATRICIA BEAUMONT

Defendant(s)

Civil Action No. 2:22-cv-04141

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) George J. Pappas
65 The Plaza
Atlantic Beach, NY 11509

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: David M. Rody, SIDLEY AUSTIN LLP, 787 Seventh Avenue, New York, NY 10019

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 2:22-cv-04141

PROOF OF SERVICE

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designated by law to accept service of process on behalf of *(name of organization)* _____
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Printed name and title

Server's address

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AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

CHABAD LUBAVITCH OF THE BEACHES, INC.

Plaintiff(s)

v.

INCORPORATED VILLAGE OF ATLANTIC BEACH;
MAYOR GEORGE PAPPAS; EDWARD A.
SULLIVAN; LINDA L. BAESSLER; ANDREW J.
RUBIN; and PATRICIA BEAUMONT

Defendant(s)

Civil Action No. 2:22-cv-04141

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Edward A. Sullivan
65 The Plaza
Atlantic Beach, NY 11509

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: David M. Rody
SIDLEY AUSTIN LLP
787 Seventh Avenue
New York, NY 10019

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. 2:22-cv-04141

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I served the summons on *(name of individual)* _____ , who is
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Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

CHABAD LUBAVITCH OF THE BEACHES, INC.

Plaintiff(s)

v.

INCORPORATED VILLAGE OF ATLANTIC BEACH;
MAYOR GEORGE PAPPAS; EDWARD A.
SULLIVAN; LINDA L. BAESSLER; ANDREW J.
RUBIN; and PATRICIA BEAUMONT

Defendant(s)

Civil Action No. 2:22-cv-04141

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Linda L. Baessler
65 The Plaza
Atlantic Beach, NY 11509

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

David M. Rody
SIDLEY AUSTIN LLP
787 Seventh Avenue
New York, NY 10019

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 2:22-cv-04141

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I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

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I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

CHABAD LUBAVITCH OF THE BEACHES, INC.

Plaintiff(s)

v.

INCORPORATED VILLAGE OF ATLANTIC BEACH;
MAYOR GEORGE PAPPAS; EDWARD A.
SULLIVAN; LINDA L. BAESSLER; ANDREW J.
RUBIN; and PATRICIA BEAUMONT

Defendant(s)

Civil Action No. 2:22-cv-04141

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Andrew J. Rubin
65 The Plaza
Atlantic Beach, NY 11509

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: David M. Rody
SIDLEY AUSTIN LLP
787 Seventh Avenue
New York, NY 10019

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. 2:22-cv-04141

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Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

CHABAD LUBAVITCH OF THE BEACHES, INC.

Plaintiff(s)

v.

INCORPORATED VILLAGE OF ATLANTIC BEACH;
MAYOR GEORGE PAPPAS; EDWARD A.
SULLIVAN; LINDA L. BAESSLER; ANDREW J.
RUBIN; and PATRICIA BEAUMONT

Defendant(s)

Civil Action No. 2:22-cv-04141

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Patricia Beaumont
65 The Plaza
Atlantic Beach, NY 11509

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: David M. Rody, SIDLEY AUSTIN LLP, 787 Seventh Avenue, New York, NY 10019

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. 2:22-cv-04141

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

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on *(date)* _____ , and mailed a copy to the individual's last known address; or

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_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

EXHIBIT 1

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VILLAGE OF ATLANTIC BEACH

BOARD OF TRUSTEES

PUBLIC HEARING

-----x

Consideration of acquisition

Of

2025 Park Street

2035 Park Street

By Eminent Domain

-----x

VILLAGE HALL & Live Stream
65 The Plaza
Atlantic Beach, New York
January 10, 2022
7:51 p.m.

B E F O R E,

GEORGE PAPPAS

MAYOR

T A K E N B Y:

KAREN LORENZO

COURT REPORTER

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A L S O P R E S E N T :

EDWARD A. SULLIVAN DEPUTY MAYOR

LINDA L. BAESSLER TRUSTEE

PATRICIA BEAUMONT TRUSTEE

ANDREW J. RUBIN TRUSTEE

DOMINICK MINERVA, ESQ. VILLAGE ATTORNEY

EMILY SINISCALCHI VILLAGE CLERK

JOSHUA H. RIKON, ESQ. CONDEMNATION COUNSEL

GOLDSTEIN, RIKON, RIKON & LEVI, PC

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MAYOR PAPPAS: I'd like to call the meeting to order. Please rise for the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance is said.)

MAYOR PAPPAS: I would like to thank everybody for coming to our Village Board meeting tonight. We are going to have our Public Hearing first, and then we will have our regularly scheduled Village Board meeting.

At this time, I want everybody to know this Public Hearing is to consider the acquisition of 2025 Park Street and 2035 Park Street in the Village of Atlantic Beach by eminent domain.

Does anyone want to make a motion to enter into the Public Hearing on this matter?

TRUSTEE BAESSLER: I'll make that motion.

MAYOR PAPPAS: Motion by Linda.
Second?

DEPUTY MAYOR SULLIVAN: Second.

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MAYOR PAPPAS: Second by Ed
Sullivan.

All in favor?

(Whereupon, all members of
the Board respond in favor
with, "Aye".)

MAYOR PAPPAS: I'm just going to
give a brief summary of what's going to
happen tonight and then I'm going to pass
it over to Josh Rikon.

Tonight will be an opportunity for
the Board to listen to all the comments
from the Public. The purpose of this
hearing is for the Board to get feedback
and comments from the public so we can
take all your opinions and questions in.

I would like to remind everybody
that we have a three minute time limit
for each speaker, and the Public Hearing
is going to remain open for comments for
15 days after the meeting closes tonight.
So you have 15 days to submit written
comments. Josh will explain that better
with his presentation.

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At this time, I would like to introduce Josh Rikon. He is with Goldstein, Rikon, Rikon, and Houghton (sic). Josh, would you like to give a little summary of what's going on tonight?

MR. RIKON: Yes.

Good evening. I'm Joshua Rikon, outside condemnation counsel for the Village. The law firm just changed it's name to Goldstein, Rikon, Rikon, and Levi.

I'd like to mention that we were initially consulted in 2020 and we were involved with assisting the Village in passing the Resolution to prepare appraisal reports for the two properties 2025 Park Street and 2035 Park Street in February, 2021.

This is a Public Hearing pursuant to Article 2 of the Eminent Domain Procedure Law. The purpose of this hearing to inform the public about the proposed project, to review the public use to be

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served, and to review the project on the environment and the residents of the village.

Notice of the public hearing was served on the owners of record and published in two publications. Notice of the Public Hearing is noted as part of the record as Exhibit A.

(Whereupon, Village's Exhibit A, Notice of Public Hearing, previously marked into evidence.)

MR. RIKON: Affidavit of Service for 2025 Park Street as part of the record as Exhibit B.

Affidavit of Service for 2035 Park Street as part of the record as Exhibit C.

Affidavit of Publication for *Newsday* as part of the Record as Exhibit D.

Affidavit of Publication for the *Nassau Herald* as part of the record as Exhibit E.

I will make a presentation about the

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project momentarily. Afterwards, any person in attendance has the opportunity to present written or oral statements and to submit other documents concerning the project. Each speaker in attendance will have three minutes to present statements.

This hearing is also being live streamed. People viewing the hearing on the livestream will not have the opportunity present oral statements, but the record of this hearing will be kept open for 15 days for the submission of written statements or other documents relatable to the project.

Comments can be mailed to Plaza65@aol.com or mailed to the Incorporated Village of Atlantic Beach at 65 The Plaza, Atlantic Beach, New York, 11509.

Please note there will be no response to statements, comments, or questions tonight. This is not a question and answer format.

Copies of the record of this hearing

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will be available for public examination without cost during normal business hours at 65 The Plaza, Atlantic Beach, in the Village Clerk's office, also at 65 The Plaza, Atlantic Beach.

Copies of the record will be reproduced upon written request to the Village Clerk at 65 The Plaza, Atlantic Beach, New York, 11509 and the payment of reproduction costs.

THE PROJECT:

The project at issues contemplates the acquisition of 2025 Park Street, Atlantic Beach, aka Section 58, Block 60, Lots 5-9, Parcel 1;

And the acquisition of 2035 Park Street, Atlantic Beach, Section 58, Block 60, Lots 1-4, Parcel 2.

The project consists of approximately 18,500 square feet of land to be used for the Village to expand adjacent recreational facilities that currently contain tennis courts, pickleball courts, and a basketball

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court. A rendering of the project is part of this record as Exhibit F.

(Whereupon, Village's Exhibit F, Project Rendering, previously marked into the record.)

MR. RIKON: Parcel 1 and the vacant structure on that parcel will be altered and used as a recreational facility and community center with lifeguard beach operations.

Parcel 2 will be used as a community park with open space, seating, and landscaping. No alternative locations were considered for the project.

Parcels 1 & 2 are next to a Village-owned recreational facility. Parcels 1 & 2 are currently not being used. Parcel 1 has a vacant structure on in and Parcel 2 is a vacant lot.

The effect of the project on the environment and residents was considered by the Village. The Village reviewed a Short Form Environmental Assessment Form

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and thoroughly reviewed potential relevant areas of environmental concern and found that the project will not result in a significant adverse impact on the environment or the residents of the Village.

The Village adopted a negative declaration pursuant to SEQRA. The Short Form Environmental Assessment Form is part of the record as Exhibit G.

(Whereupon, Village's Exhibit G, Short Form Environmental Assessment Form, previously marked into record.

MR. RIKON: The Resolution authorizing the execution of the Short Form Environmental Assessment Form and approving the negative declaration is part of the record as Exhibit H.

(Whereupon, Village's Exhibit H, Resolution authorizing Short Form Environmental Assessment form, negative Declaration,

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previously marked into record.)

MR. RIKON: Attendees will now have the opportunity to present oral or written statements. Statements will be made in the order indicated on the sign-up Sheet that was circulated prior to the hearing. Statements will be limited to three minutes per person.

MAYOR PAPPAS: Thank you, Josh.

I'm going to call the first speaker. Patty Nyman. Please step up to the podium and address the stenographer with your name.

MS. NYMAN: Patricia Nyman. I live on Bay Boulevard and Flamingo over here on the west end.

To me, this is a wonderful thing to have a community center. We do need to get together to make things better to help one another. Anything we can think of we can do if we unite and have center to do that in to talk to people and not have to worry about: "Do I have their number, can I call them? Or this

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neighbor doesn't know that neighbor...
Sometimes someone can end up in the
hospital and have no one to walk their
dog. If we unite, these are the kind of
things we can do. We can help one
another. Some people go shopping, but
can't get the heavy stuff out of their
car. Little things like that. I'm
outside more than I'm inside. I see
what's going on.

I just want to say how wonderful
this is. Most communities on Long Island
do have community centers. We need one.
We need to unite to help one another.
All ages we can help. Sometimes a mother
can't get the child off the school bus.
We can do things like that if we have a
community center. It's like, "oh, I know
who to call, or that one's my neighbor,
they'll help you". I just retired. I am
more available to help my neighbors than
I would have been when I was working. We
have to unite. It makes a difference. I
see that in other communities. A

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community center will help us do that.
If we have money problems once in a while, I guess from heating and all, that's in the future.

We can have meetings. We can have AA meetings, Al-anon meetings, people with the garden, us with our cats. It goes on in temples and churches all over the place.

In Long Beach, I go to People's Church and we are always renting out an evening where someone gets an hour for this meeting and someone gets an hour for that meeting. So it's a wonderful idea. I hope everyone is for it. It's the perfect spot. When people come in off the bridge, it will look so nice for a change. It will be good. It will have to get started. It will be a slow start with winter right now, but we can do it. I know we can.

Thank you.

MAYOR PAPPAS: Thank you. The next speaker is Todd Geller.

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(Whereupon, Mr. Geller
withdrew from speaking.)

MAYOR PAPPAS: Anthony Basso.

MR. BASSO: My name is Tony Basso.
I lived in this village 27 years. I'm a
disabled Korean War Veteran. I fought
for my country and I'm going for Atlantic
Beach to be the place that everybody
loves forever. Anybody has a problem
with that, they're gonna have to go over
my dead body to do it.

MAYOR PAPPAS: The next speaker will
be Jerry Goldberg.

MR. GOLDBERG: Good evening,
everyone. My name is Jerry Goldberg.
I've lived in the village since 1986. I
think any opportunity we have to beautify
the village, to make a service available
that everyone in the village can use, to
expand our recreational activities,
again, available to everyone in the
village, we should take every advantage
we have to do that. I'm very supportive
of this proposition.

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MAYOR PAPPAS: Thank you.

Next speaker will be Shelly Martin.

MS. MARTIN: Thank you, everybody.

Shelly Martin. I live on Bay Boulevard,
Atlantic Beach. I've lived here since
about 2001. We have a great community.
We have a great place in the summer with
beautiful beaches to hang out on and get
together as a community. The winter
comes and everybody goes inside and we
lose the sense of community. Having this
community center would be a wonderful
thing to have where people could go,
people could hang out, people could --
most of us don't have giant yards that if
you wanted to have a party or something,
you could use the community center for
your family, you could book it. Kids
could have movies, more fun things to do.
Maybe there will be a dog park on the
property (laughter). I know, I know.
It's a dream. I can still have that.

But I mean, it would be great to
have a community center in this town. I

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know the garden has worked out very well. Again, the winter comes and everybody retreats. Unless you have a dog and you're out walking, you don't see anybody. This would be a great thing for our community.

MAYOR PAPPAS: Thank you.

Our next speaker is Phyllis Jonas.

(Whereupon, technical difficulties addressed.)

MS. JONAS: Hi. I am Phyllis Jonas.

I have lived on Bay Boulevard between Montgomery and Putnam for almost 49 years. This has been a wonderful community. I have been part of the synagogue community and it has been exceptional.

I do have some questions about this acquisition:

1. How are we paying for it? If bond is going to be floated, it comes out of our pockets. I don't know about you, but my taxes are very high. I am a retired teacher from a day school living

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on -- I'm certainly solvent, but I consider myself cognisant of these matters.

In order to buy this we have to float a bond, I assume. We have to have money to refurbish. We have to have money to staff. You can't have a facility without taking care of it. We want to have activities, well you have to provide staff.

These are items, these are matters that I think we should certainly consider. It's really great having a community center, but we are a small community, maybe 2000 people, and I think we have to think of these things too.

Thank you for your consideration.

MAYOR PAPPAS: Our next speaker is Richard Libby.

MR. LIBBY: Hi. I'm Richard Libby. I have lived in this community for over 60 years. My grandfather came here in 1926 and opened up his office. We've owned that property at 2035 Park Street

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since 1938. Due to the Village's activity, the building was torn down even though it was safe. We've also heard --

(Whereupon, off record disruption from public.)

VILLAGE ATTORNEY: Please. This is his opportunity to speak. We will give everyone a chance.

MR. LIBBY: We approximately paid a little under \$4,000 for the vacant lot to sit there and we were waiting for the Building Department person who was in here to leave before we built it, which I told Mr. Pappas that we were going to build something there.

The idea of a community center in that location is horrible. I could give you five other locations the Village could build on and not pay for the land, probably, which would be on The Plaza, building over the deck over their property there and have an ocean front thing and put a pool next to the boardwalk for the residents which would

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be a better use.

There's also the property of the Sewer Commission land between Hamilton and Ithica which is almost a full block which they could probably rent from the Sewer Commission for a very nominal amount of money which is not paying any taxes currently to the Village.

The other piece is by the bridge or right next to the rescue center where the Village actually owns some property and the Bridge Authority has it which we used to rent for \$1.00, but for some reason they wanted to eliminate one of the tennis courts and put a basketball court there and remove it from the other side.

The other property they could use is the big open field across the street from that on the entrance to the bridge which is probably about 2 1/2 acres.

So we are going to be going in here buying land from residents who are paying taxes and we are going to go in there and basically take away the tax rolls that

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are there, make sure that -- hurt people in the use of the property, which we've owned for 84 years.

Since the Village tore down the building, we've paid over \$200,000 in property taxes to the County and the Village, and other places. We are not behind on any bills like some individuals.

The idea of a park there is insane when you think about other locations. Who is it going to benefit when --

TRUSTEE BEAUMONT: Thirty seconds.

MR. LIBBY: I have multiple comments. I signed up for five people.

VILLAGE ATTORNEY: It's three minutes per speaker.

MR. LIBBY: I put --

(Whereupon, off the record discussion with public.)

MR. LIBBY: Originally, when they built this building, it was supposed to be the community center. We have staff here that can watch the people in the

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community center and they can use this room for their meeting areas (indicating) or they can use that room for their meeting areas (indicating), or they can use the Building Department area or --

MAYOR PAPPAS: Three minutes is up.

MR. LIBBY: I have two -- multiple times.

MAYOR PAPPAS: It's three minutes per speaker.

VILLAGE ATTORNEY: You cannot transfer time.

MR. LIBBY: I'm taking someone else's time.

MAYOR PAPPAS: We are not transferring from one speaker to another.

(Whereupon, off the record crosstalk with public is held.)

MAYOR PAPPAS: You can submit the rest of your comments in writing.

MR. LIBBY: I'm not submitting them. I'm talking now.

MAYOR PAPPAS: Your time is up.

VILLAGE ATTORNEY: Mayor, call the

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next speaker.

MR. LIBBY: No. I am the next speaker. I signed in for my sister, my wife, for my other sister, my nephew and myself.

MAYOR PAPPAS: You can submit in writing.

MR. LIBBY: No. I want you to look at these other places. Why are you going to go condemn and spend millions of dollars to take our property when you have free land? What are you --

MAYOR PAPPAS: Thank you, Richard. (Bangs gavel). Thank you.

MR. LIBBY: Why are you doing it? What is the purpose? It's anti semitic or anti Hispanic? Is that the reasoning? That's what it is. Because the Chabad just bought the property and now you're trying to condemn it from them.

MAYOR PAPPAS: We are trying to move on to the next speaker. Thank you.

(Whereupon, Mr. Libby steps away from podium and continues

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off the record commentary.)

(Whereupon, next speaker
steps up.)

MS. SIMAO: My name is Victoria
Simao.

A few things that happened.
Call-a-Head (phonetic) wanted to buy the
bank and they were told there was an
environmental issue and they should not
buy the property. I want to know what the
environmental issue that made Call-a-Head
not want to buy the bank, but the Village
can do it.

Then, there was Med Life (phonetic)
was going to move in there. They started
to do some demolition to try and clear
and figure out what they could put in
there and Steve Cherson, the Building
Department, told them you can't do
anything until all the plans are turned
in and everything has to be approved by
everyone so we're not gonna do it. So
what did they say? They said, oh, we
don't have enough business in Atlantic

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Beach, but go down to Long Beach, any place that's doing COVID tests, they're around the block. Okay.

The property was for sale for almost two years. It wasn't interesting for the Village to buy it during those two years that they could have bought 2025 Park Street and negotiated a deal for it. They waited till after the Chabad bought it. The Chabad wants to open up community center not costing the Village anything. What are they doing? They say, oh, no. We don't want the Orthodox in there. We are going to buy the property and they were going to buy property.

But even though the mayor or ex-mayor is saying they didn't have a right to tear our property down -- we're saying they didn't -- guess what? The almost \$50,000 they spent tearing the property down, guess who paid for it? All of you. Because we won the suit that they shouldn't have torn our building down and they had to pay it all. They

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paid for our building to be torn down. Okay. So that building that my grandfather built with iron beams, it took them over a week to tear it down. The contractor who tore it down -- and the Mayor can abide by this -- said it was one of the hardest buildings to tear down because it was built amazingly. The former mayor didn't like my brother, he didn't like us because I ran against him in the office and they went to torture us.

Now they're saying -- this gentleman said he was hired in 2020. You want to know what else happened in 2020? They changed the zoning. They changed it from commercial -- which it was commercial since before the Village was a village -- they changed the zoning to be residential. Now they say they're gonna want to pay us on the lower amount. We have offers of over a million dollars for our property. The other one sold for a million and a quarter. It's gonna cost

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\$2.5 million to buy the property before they even start to do any renovations, before they start to do anything else. So, tell you what, if they built it over by the bridge, they own the property, they could have parking underneath. Have a building above it.

(Whereupon, a brief interruption due to technical difficulties.)

MS. SIMAO: If they bought -- they own the property by the beach already. We could have an community center with a pool, which, trust me, I would love a pool. I paid for years for my son to swim in Long Beach to be on their team because we had no pool in Atlantic Beach. I had no pool growing up in Atlantic Beach.

The Tennis Center. When they own that --

MAYOR PAPPAS: Your three minute are up.

MS. SIMAO: Thank you. She paused me for a minute.

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The Village owns the Tennis Center already. They could put a community center in the Tennis Center. The building is already there.

MAYOR PAPPAS: Our next speaker is Ed Bart.

MR. BART: Good evening. Ed Bart and my wife Lauralee. We are on Eldorado Street.

I've listened to people say they've been here 20, 40, 60 years. We've been here about 24-26 years now. I like the idea the Village is going to -- whether it's a sacrifice or not -- take over the property and build something for the Village, I think that's certainly the right thing to do. I go onto the website and it says "A Village by the Sea". I want it to be for us and our people. The vegetable garden has really had some good success. The people have loved it. They have shared with our neighbors. Having a community center for us I think is something really positive for our village

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itself. I think everybody is gonna get some use out of it. I think we're forced to get some use out of it because they're doing it here. So the sacrifices and maybe the mistakes that were made in the past, at least they will be corrected and it is for our community.

Again, there are people that have lived here for 60 years, 25 years, 40 years; their children now live here. That's what I've heard since I've been here for 26 years.

Hopefully, we will keep this up and by owning our own community and having our properties around us, I think it creates something a little bit more secure for the people who have spent their time here and have been here and fought for their village.

Again, I commend you for putting this together. I've seen a lot of improvements. The Village, again, street cleaning, lights, whatever it is. They've done a pretty good job in my

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view. I only stand up here when I think there's an issue; otherwise, I'm pretty quiet.

At this time, having the Village buy their property back, I think it's going to add to our community. That's what we're all looking for. And you know something, when our children move here, it's going to be the same thing. I feel very well about it. Thank you.

MAYOR PAPPAS: Our next speaker is Joseph Montilli.

(Whereupon, Mr. Montilli withdraws from speaking.)

(Whereupon, public interrupts with off record conversation.)

MAYOR PAPPAS: Michael, you want to speak, please come forward.

MR. SIMAO: My name is Michael Simao. I've lived here or about 19 years now. I've spent pretty much my entire childhood here.

To be honest, this community center

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idea is horrible. The reason why is simple. We have the beach, we have other places we can hang out. Having a community center with this whole idea of togetherness won't occur. When you think about where this place is even located, where are they going to park? Where are they going to be out in the yard? If there is going to be little kids, it's right next to a main street. It doesn't make any sense.

I walk on the boardwalk all the time and half the time I am picking splinters out of my boots. I think instead we should work all this money we have -- that we supposedly have, really -- on buying these two places instead fixing up something that is actually helpful and is good for the community, it gives people a chance to exercise. You guys want to exercise at the community center? Walk on the boardwalk, get some fresh air.

Also, I don't think anyone would do it. How many young people do you see

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here that would be using a community center or movies, events, stuff like that? There is barely anyone young here anymore. This would be basically a way for a few people to gather around. The lifeguards could use here instead of making a new building. It just seems like a waste of money that seems more like a design for another way to waste money that we don't even have really.

That's it. I think it's a stupid idea.

MAYOR PAPPAS: Thank you.

Yana Squeri. All three of you signed up.

(Whereupon, Yana Squeri withdraws and Alex Squeri steps up.)

MR. SQUERI: Hello. I'm Alex Squeri. I'm a lifelong resident of Atlantic Beach and I'm also a lifeguard for three years.

After listening to the reason why they want to acquire these two properties through eminent domain, there has been no

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discussion as to what services this property would provide. So to sit here and listen to everyone say how great it is is disappointing to hear adults say that without any description of what the building is going to be used for. I would think you would want to know that before you say it's such a great idea to make that happen.

Additionally, the idea that lifeguards need a place to meet, my firsthand experience leads me to believe that it's totally unnecessary. The lifeguards don't need a building at all, they need better working equipment, a competitive wage, not the worst wage on the whole strip.

Additionally, with other properties throughout the village that the Village could repurpose to do just that, I think it's quite disgusting we take a property from a family that's been in Atlantic Beach longer than pretty much everyone here.

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That's all I have to say.

MAYOR PAPPAS: Nat Etrog.

MR. ETROG: Good evening. My name is Nat Etrog.

I started working here as a lifeguard in 1964. I was very small. I've been a park commissioner since the mid '70s when I started to live here in 1976. I currently serve as a commissioner on the fire district entering my second/third term.

I will talk about specifics about how this could be used. Everybody is talking about a community center, but it could be served in a much better way. As you know, we're subject to hurricanes. The last big one we had Sandy, this facility was used and it was used very poorly because there is no place to sit other than the auditorium.

It could be an emergency operation center. We had people from FEMA and the State coming down here. This facility could be a planning center for emergency

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or disaster operations.

It was mentioned about lifeguard quarters. I'm not disagreeing with Alek, but the lifeguards need a place to meet. Not just the street on Dutchess Boulevard. They need a place to meet to have meetings. When they come here to have a meeting at the beginning at the season, it's not as organized as it could be in a center that was dedicated for lifeguards.

(Whereupon, off the record interruption from public.)

MR. ETROG: The other issue is, as you know, sometimes the police needed our headquarters. This could be an area where the police have lunch. They do take breaks. The presence of 2-3 police cars here as you come around the town would help with a big issue of speeding on Park. Much more visible. We are very glad to have them at Rescue, but more visible as you come around the bridge.

In any case, Alek mentioned there

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were no specifics. Those are real specifics. We have no place for the public to meet as a group. A community center is a great idea, but beyond that, I think this could be used in some of the ways I listed.

Thank you.

MAYOR PAPPAS: Next speaker is Stephen Mahler.

(Whereupon, Mr. Mahler withdraws from speaking.)

MAYOR PAPPAS: The next speaker I cannot read, it's 85 Erie Avenue.

MR. KADOE: My name is Michael Kadoe. I've been living here close to three years. It's an amazing place.

The whole idea of building the center is amazing. Do we have the money for it? Are you willing to pay for it? Who's gonna occupy it? Now with COVID, social distancing, do we want to be at the center? The people are gonna come and, what? Spread the COVID? Come on. The idea is great for some other time.

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We talking about 2.5 million dollars.
This is the budget just to buy the place.
What about build it? You're talking \$5 million which is about \$5-6,000 per each 2000 owners in Atlantic Beach. What about caring the place? Salaries? Liabilities? Think the whole picture and think about it.

Thank you so much.

MR. JOHN SQUERI: Good evening. I guess everybody drops it so, I've been here 49 years.

I gotta tell ya, it's a great idea, but the way it's gonna go down, there was the kid who got beat up and his head smashed in, the owner of the Chinese restaurant getting shot, then there's this. Taking people's property. I mean everybody wants something. You want meetings, he wants a community event. You're gonna take somebody's property from them that they've had. The new people from the Chabad, they just bought it. Make them an offer if you want to

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buy it.

I'm all for a community center. Put it next to the Rescue Station. Let's put two stories above Village Hall and we don't have to get into the bad -- that's just going to send out bad (indistinct noise made). It's horrible. It's awful.

I'd like to hear from the Korean War Vet. Is this a good idea, to take somebody's property because you want a community center? Are you kidding me? Shame on all of you. Terrible.

MAYOR PAPPAS: Next speaker is Kevin Kelley.

MR. KELLEY: Hi. Thank you for the opportunity to speak, and thank you for holding the meeting tonight.

I think the format is unfortunate in that we don't have any specific proposals and we can't ask questions about the price with the acquisition method and, as Nat pointed out, what the specifics are for the place.

Also, if it's going to be a park, it

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doesn't look like an ideal location to have a park. Everybody knows about the speeding problems on Park Street. You don't want to have a park in a location like that. Maybe we can landscape it to some degree to insulate from the pollution and noise. There is a real danger of people traveling 50-60 miles per hour on that street. Not a good situation to have.

The community center itself, yeah. That would be a nice idea. I would like to have a community center also. I think the community could certainly benefit from something like that. At the same time, we don't know enough about what is involved and how this came to be and why it's happening now. If there is this subtext about Chabad having purchased the property, then you raised a welter of potential difficult and unpleasant issues as well.

I'd like to know a full accounting of how this happened and what it involves

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and then we can make a more informed decision and how to proceed.

Thank you.

MR. GOODMAN: A face to the Chabad the people are asking about.

First of all, I think nobody can disagree a community center, once a community center, will be and offer is a great thing for every community. What I think people are stressing over very clearly over here, this is America and stealing a property, taking a property eminent domain is usually a last resort. You want to build a road, highway, train tracks, and you have no other choice. We all know eminent domain usually is the last resort. Most property owners are somewhat excited when eminent domain takes place because you have to pay at a premium price. The fact is, if this village really wanted this property, it was left vacant for two years. There was plenty of opportunity to build a community center. We all know there are

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roads over here. This is not the place for a community center. I'm not familiar with every property the village owns, but near the boardwalk, near the beach, I'm sure there are other properties they own currently so they don't have to spend top dollar because you have to go in front of a judge, there's legislation, there's legal processes and the fact that we are a religious organization -- we are going to talk a little bit later about what we want to do with the property. The idea is, there are a lot of religious liberties, there's court procedures -- the thing is a number of people, pro bono lawyers, have said this is anti semitism. This is clearly something that we don't even want to talk about and, therefore, this could go for many, many years in the courts. It's not something we want to do, but at the end of the day, there is a good chance if we go that route, there won't be a community center, there won't be a Chabad community center; there will

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be nobody. It's just going to go through the courts and there will be millions and millions of dollars being spent with no real purpose.

The thing is, I think the idea that magically that all of a sudden they want a community center weeks after Chabad purchased the property. Weeks. It's been open there for two years. People say, "oh, they had plans all along". You know what? Eminent domain is a very, very costly proposition. It's a last resort. The fact is that I think people will understand that and realize that as things go along if this continues the way it is.

Really, people understand very, very clearly over here that there is more at play than building a community center here. They haven't described what they want. They should be saying how beautiful is the community center, but they're right next to the road. It's not a safe place. There are so many things.

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You should be talking about all of the wonderful things that you want to do with your community center. That's what the majority of this meeting should really be and everybody could flush out, is this a good idea or is this not a good idea.

I think everybody realizes that this is not really about the community center. This is really about stopping the Chabad community center from coming over here. That's what people really understand.

The fact is, my wife and I are directors at the Chabad of the Beaches. We are not an orthodox organization. I am the only one with a beard. Everybody else is more --

MAYOR PAPPAS: Rabbi, three minute are up. You can finish your thought.

MR. GOODMAN: We want to build a community center for children, teens, youth. There are so many things out there to volunteer -- to clean the beaches. There are so many humanitarian things Chabad have done all across the

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world, all across the globe. I think there are many, many people here that benefit from Chabad all across the globe and they understand the benefits that will be to this community.

MAYOR PAPPAS: Thank you, Rabbi.

Our next speaker is Beila Goodman. Please state your name for the stenographer.

MS. GOODMAN: Hi. Beila Goodman. I'm Co-Director of Chabad of the Beaches. We've been living here on the barrier island for the last 17 years servicing Atlantic Beach, Long Beach, and Lido Beach communities.

Our brand, our focus, has always been for the greater good of the community. Humanitarian projects, counseling of all sorts, education, volunteering. Our Jewish values teach us to get out there and be at the forefront to help everyone whenever, wherever; to teach kindness and inclusiveness; instill values and create opportunities to bring

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back, to bring light.

The Village wants to create a community center and that's why we are here tonight. Chabad is doing just that. We've already begun the process. We are only continuing what we've been doing for the last 17 years as residents of the barrier island. We've had programs in many people's homes around Atlantic Beach. We once did a program on the beach together with the JCAB. We've provided and continue to provide all of these types of things here in the village. The only difference is now we will have a physical space here so we can take it up to another level in terms of reach and in terms of impact and for the greater good and community in mind.

Our goals are inline with the goals of the Village. We purchased the property with all of you -- local community -- in mind. This will be a community center that will cultivate young leadership, volunteerism, provide

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assistance to those who need help. He mentioned clean up the beaches, promote social action and young leadership through a Smile on Seniors Program.

We will instill the importance of values and kindness. We feel confident that everyone here in this room will one day have tremendous pride from what Chabad has brought to the community for all types and all denominations.

So, yes, our goals are completely inline. The only difference is we are not doing it on the taxpayer's dime.

Thank you for listening.

MAYOR PAPPAS: The next speaker is R. Golden.

MS. GOLDEN: My name is Rosanna Golden. I work for (inaudible) for over ten years. I was sitting in the office one day and looking out at as the bridge comes down, the little area, and I saw this couple jogging beautifully down the road and they were hit by a car and killed.

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Now, if you put a community center there, where will you put the children, on the beach? You can't put them on the road. Would you want your children -- can you control children? Would your children be allowed to run in the middle of Park? Would you like that? Or your grandchildren?

Another thing: This is a seasonal town. Most of the people go to Florida, California, Arizona, or even Vermont in the wintertime. Who's here in the winter? No one.

(Whereupon, off the record public commentary.)

MS. GOLDEN: Okay. A small handful of people.

The tax money that's given from the real estate office that was torn down has been lowered as well as the bank, that's been lowered. Who's going to pay the taxes if this property is stolen from the people inherited it?

Would you like it? Would you like

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if you had a million dollars to leave to your children and I come to you and say, "oh, no. Your kids can't have it. I want to give it to my grandchildren. And your children can't work on the beach either and get paid because some community is going to pick up all the dirt on the beaches". Is that right? What about the children that have spent years here? They won't be able to work on the beach because, as she said, that young lady, her community will clean the beaches for free.

What about the teenagers that have been working and getting paid as lifeguards, as street cleaners, as whatever they do on the boardwalk? I think they should take the boardwalk and redo it like Long Beach. The boardwalk is a disgrace. It really is. It's a disgrace. The boards, the nails are sticking up and everything. When you go on the boardwalk, people give you dirty looks. I've been here over 40 years.

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It's depressing. It's a depressing,
disgusting boardwalk.

You should do -- even the parking
lot. I don't know who owns the parking
lot on Lewis Avenue. I didn't buy the
corner house because I was told they were
going to put a big complex there. Well,
it's vacant. Why don't you put a
beautiful community place there? That
makes sense. Doesn't that make sense to
you? Put the community -- whatever you
want to call it -- we don't even need it.

You have a beautiful room here. You
can have all the meetings you want. I
mean, it's silly. It's just a waste of
money. You're going to lose all that
revenue.

MAYOR PAPPAS: Your three minutes
are up. Thank you.

MS. GOLDEN: Thank you.

MAYOR PAPPAS: I'm having trouble
with the last name. Amber, from
Rensselaer? Just state your name for the
stenographer.

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MS. KINSLEY: Amber Kinsley. I've been here for 98 years -- it's a joke. Why is everybody stating how long they lived here for? (Laughter).

I definitely was so confused when I came in here because I was for Rabbi Goodman and the Chabad. At first when everyone was talking about the community center, I was like, oh, we're building the community center? I thought we already one. I'm not so sure why this is needed. The Chabad already has something that I've actually already attended myself that was really beautiful and I can't even imagine what else is in store.

So, if they have something already developed, already own it and they've done events already -- it does seem so suspicious. I would be insulted to assume that, as myself being Jewish, it has anything to do with anti semitism, but it's so suspicious. Why would we take anything away? Especially in a time of need when there is so much anti

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semitism in the world. To take that away from -- we already have it. It doesn't make any sense. I don't understand. It is a community center. You want it; they have it. You don't have to take anything away.

I'm confused about who's going to these movies. Like people said, what movies? No one is going to the movie theaters at all. Not at all. The movie rates are down. People are watching things at home. It's COVID.

Also, the great idea of the pool outside. I would love a pool. I don't have a pool. I would love to have a space where that would be available.

So let's be smart about the situation and not worry about how long the people have been here for and respect the people who bought the place and are doing really good things for it already.

Okay. I'm done.

MAYOR PAPPAS: Thank you. The last speaker is Bethanne Last.

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(Whereupon, member of public indicates the desire to speak after Ms. Last.)

MS. LAST: Bethanne Last.

I understand the conflict people are having. I used to work for the City of Long Beach. I was City Comptroller.

When eminent domain was declared in the City of Long Beach --

(Whereupon, off the record public interruption.)

MS. LAST: The crux of what I want to say is, financially this is not a sound idea. To do something like this makes no sense. When the City of Long Beach declared eminent domain and knocked down Walbaums that is Stop and Shop now, they paid for it, not the City of Long Beach. It made sense. Right now, it doesn't make any -- if there are all these properties that are available that I have been listening to, why not cultivate those properties? To take away, again, from the tax base, makes no

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sense either.

So, of course, I'm not in support of taking land away from somebody else who paid for it who is going to contribute to the tax base and contribute to the community and make it better.

It also seems very odd to me that suddenly -- where are these plans of the community center? Why isn't something displayed here to show me what you're talking about? It's like something vague in the air. Where is the design? Who is coming up with the idea? It just seems like you want to shut down somebody else's idea. That's my gut feeling.

Again, being in finance and being an accountant, this makes no sense financially at all.

That' my conclusion.

(Whereupon, Ms. Kaylie steps up.)

MS. KAYLIE: Roberta Kaylie, 30 Genesee.

Good evening. I've been living in

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the community for about 26 plus years.
To me it looks like there are two
separate issues:

1. Should you build a community
center?

2. Do you want to take away the
land from two owners?

Two separate issues. They've done
an environmental study, but where's the
economical study that they've done on
this? Because you have to have plans.
What are you going to do? It's nice to be
able to have someone to be able to call,
but you don't need a building to call
somebody. There's modern technology to
get in touch with everybody.

The other thing is, what is going to
be the impact on the taxpayers? Why not
find a solution that's good for everybody
without increasing the costs for each
individual; unless there is some ulterior
motive, I don't know. It just seems more
reasonable to maybe use the tennis center
because in the winter nobody is really

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there. They only have one court open.

Talk about facilities, the tennis court, the fence is about to come down. It's falling apart all around. If you walk around, you'll see all the work that needs to be done on it. The lights on the boardwalk -- when I walked over, there are at least six lights out on the boardwalk. Let's take care of what we have and improve on that and find ways to do what's good for the community, but without a big impact.

Thank you.

MAYOR PAPPAS: All speakers have spoken, everybody has been heard?

(Whereupon, no verbal response.)

MAYOR PAPPAS: Thank you very much.

At this time, I'd like someone to make a motion to exit out of the Public Hearing to consider the acquisition of 2025 Park Street and 2035 Park Street, Atlantic Beach, New York, by eminent domain and to keep the record open for

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the next 15 days for comments from the public.

TRUSTEE RUBIN: I'll make that motion.

MAYOR PAPPAS: Andy makes the motion to come out of the public hearing. Anybody second it?

TRUSTEE BEAUMONT: I'll second it.

MAYOR PAPPAS: Linda seconds it. All in favor?

(Whereupon, all members of the Board respond in favor with, "Aye".)

(Whereupon, above matter concludes.)

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(Original Exhibits retained by Condemnation
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C E R T I F I C A T E

STATE OF NEW YORK)
 : SS.:
COUNTY OF NASSAU)

I, KAREN LORENZO, a Notary Public for and within the State of New York, do hereby certify:

That the above is a correct transcription of my stenographic notes.

I further certify that I am not related to any of the parties to this action by blood or by marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of January, 2022.

Karen Lorenzo
KAREN LORENZO

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Z

zoning [2] - 25:17, 25:20

EXHIBIT 2



[Redacted] post



our town, that went beyond the majority of residents, equates to bigotry

5d Like Reply

7



[Redacted]
It is very sad that a group that will not serve a large majority of residents and does not pay taxes is seen as bigotry. Chabad's first foray into this community was an unlawful, disrespectful and thoughtless religious celebration for their supporters (the majority of whom are not residents). Perhaps their actions contributed to the sentiment that many of the AB residents do not want or need Chabad.

4d Like Reply

3



[Redacted]

IMO... talk... celebration...

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EXHIBIT 3




January 13

6:29 PM

[REDACTED]
[REDACTED] people are not afraid of Chabad, they just don't agree with their plan to open a community center where they will cater to a select community. Let's be real. The Atlantic Beach community and the Chabad community are two very different things.

Atlantic Beach has been affected by religious agendas for far too long. If you had children that attended Lawrence Public Schools, whose only intention was to get a great education you would understand the hesitation that our community feels. The orthodox

Rules 



Added to Library



January 13

6:29 PM

The orthodox systematically took over our once excellent school district. Piece by piece. One elementary school after the other until there was nothing left. Tax dollars that residents of AB paid to the district was used to improve buildings and then we watched as the dominantly orthodox school board members sold off our schools to religious schools focused on Jewish education. While our children were forced into smaller and smaller spaces until there was not much left. Five elementary schools into two. This was done with intention, to provide

Rules 



Added to Library

EXHIBIT 4

4:35



[redacted] post



[redacted]
[redacted] beach clubs are on the beach, not walking around the village. I am sure we can all agree that we would be happy if they were not here. The beach clubs have been here for 70 + years. They also pay taxes. If you look at Chabad activities, it is all religious, from their mission statement to daily activities. The attendees at the Hanukah event were mostly outsiders, parked illegally, blocked driveways, and left garbage all over the street. Are they going to have a Christmas event for the local kids? I am sure they won't. If they occupy the building, they should be

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4:35



██████████ post



blocked driveways, and left garbage all over the street. Are they going to have a Christmas event for the local kids? I am sure they won't. If they occupy the building, they should be fined for every infraction. The bank area is a mess. The garbage from the event was never cleaned up by them. I have friends who live in a Chabad block and their lives are constantly disrupted. I bet there will be a preschool (mostly attended by children from across the bridge), religious classes, prayer sessions etc. Let's be real, NOT inclusive.

4d Like Reply

4

Rules



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EXHIBIT 5



Comment

[REDACTED]

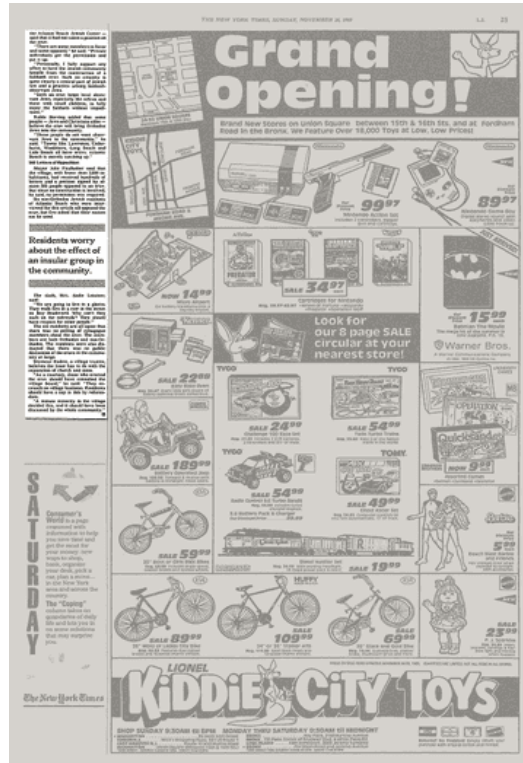
[REDACTED] I don't agree with the village taking MA Salazars property. I grew up with the Libbeys and watched Bertie work her ass off her whole life. The village shouldn't be targeting them. But. I don't agree with Chabad coming into this village and changing the dynamic here. Because that is what will happen. And I know your husband doesn't want them here either. This it two very different issues. One is the attempt take over of a locals property and two the Chabad coming in and trampling all over our beautiful village and

EXHIBIT 6

Atlantic Beach Split By Sabbath Border

By Sharon Monahan

Nov. 26, 1989



See the article in its original context from November 26, 1989, Section 12LI, Page 24 Buy Reprints

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LEAD: TO be able to carry small articles and push wheelchairs or baby carriages to the synagogue on the Sabbath, Orthodox Jews must extend the boundaries of their homes symbolically by establishing an "eruv" in the outer community.

TO be able to carry small articles and push wheelchairs or baby carriages to the synagogue on the Sabbath, Orthodox Jews must extend the boundaries of their homes symbolically by establishing an "eruv" in the outer community.

This is done by designating landmarks like utility poles, fences and walls to mark the ritual enclosure.

Several Orthodox Jews in the Nassau County village of Atlantic Beach, who have set up an eruv privately, have stirred a controversy involving non-Orthodox Jews and Christians, who say they fear the eruv will encourage the "ghettoization" of their village. Insular Group Feared

According to David Woolfe, a village trustee, people are concerned about an insular group, whether it is the Moonies, Muslims or Orthodox Jews, moving into the community.

"People have seen what happened in Lawrence and Cedarhurst, where eruvs have been erected," he said. "It has created problems on streets where the Orthodox Jews walk four and five abreast, interfering with traffic.

"We are a small, varied community which has now opened up to a group that has narrowly defined interests. We are not comfortable with the eruv."

Mr. Woolfe said he was told that the Long Island Lighting Company and New York Telephone Company had given permission to put small markers on the utility poles.

"The village never gave permission for this," he said. Temple Has Not Taken a Stand

Rabbi Basil Herring, spiritual leader of the only temple in the village - the Atlantic Beach Jewish Center - said that it had not taken a position on the eruv.

"There are some members in favor and some opposed," he said. "Private individuals got the permission and put it up. "Personally, I fully support any effort to have the Jewish community benefit from the construction of a Sabbath eruv. Such an amenity is quite clearly a central part of Jewish law and a practice among Sabbath-observant Jews.

"Such an eruv helps local observant Jews, especially the infirm and those with small children, to fully enjoy the Sabbath without impediment."

Rabbi Herring added that some people - Jews and Christians alike - believe the eruv will bring Orthodox Jews into the community.

"Those people do not want observant Jews in the community," he said. "Towns like Lawrence, Cedarhurst, Woodmere, Long Beach and Lido Beach all have eruvs. Atlantic Beach is merely catching up." 500 Letters of Opposition

Mayor John Faulhaber said that the village, with fewer than 2,000 inhabitants, had received hundreds of letters and a petition signed by almost 500 people opposed to an eruv. But since no construction is involved, he said, no permission was required.

Six non-Orthodox Jewish residents of Atlantic Beach who were interviewed for this article all opposed the eruv, but five asked that their names not be used. The sixth, Mrs. Sadie Leistner, said: "We are going to live in a ghetto. They walk five in a row in the street on Bay Boulevard. Why can't they walk on the sidewalk? They should have respect for other people."

The six residents are all upset that there was no polling of synagogue members about the eruv. The members are both Orthodox and non-Orthodox. The residents were also dismayed that there was no public discussion of the eruvs in the community at large.

Seymour Radow, a village trustee, believes the issue has to do with the separation of church and state.

"As a courtesy, those who erected the eruv should have consulted the village board," he said. "They encroach on village business. Residents should have a say in this by referendum. "A minute minority in the village decided this, and it should have been discussed by the whole community."

A version of this article appears in print on , Section 12LI, Page 24 of the National edition with the headline: Atlantic Beach Split By Sabbath Border