

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

PATRICIA MOORE-KING,)

Plaintiff)

v.)

COUNTY OF CHESTERFIELD, VIRGINIA,)

SERVE: Steven L. Micas, Esq.)
Chesterfield County Attorney)
Lane B. Ramsey Admin Building)
9901 Lori Road)
5th Floor, Room 503)
Chesterfield, VA 23832)

and)

JAMES J. L. STEGMAIER, County)
Administrator, County of Chesterfield,)
Virginia,)

SERVE: Lane B. Ramsey Admin Building)
9901 Lori Road)
Chesterfield, VA 23832)

and)

JOSEPH A. HORBAL, Commissioner of)
Revenue, County of Chesterfield, Virginia,)

SERVE: 9901 Lori Road)
Building 38, Room 165)
Chesterfield, VA 23832)

and)

THIERRY G. DUPUIS, Chief of Police,)
County of Chesterfield, Virginia,)

SERVE: 10001 Iron Bridge Road)
Chesterfield, VA 23832)

CIVIL ACTION NO.:

COMPLAINT FOR INJUNCTIVE,
DECLARATORY AND MONETARY
RELIEF

JURY TRIAL DEMANDED

-----)
ALSO SERVE PER VIRGINIA CODE)
§8.01-300.4:)

Steven L. Micas, Esq.)
Chesterfield County Attorney)
Lane B. Ramsey Admin Building)
9901 Lori Road)
5th Floor, Room 503)
Chesterfield, VA 23832)

- and -)

Dorothy Jaeckle)
Art Warren, Chairman)
James Holland)
Marleen K. Durfee)
Daniel A. Gecker, Vice Chair)
Board of Supervisors)
Chesterfield County)
Lane B. Ramsey Admin Building)
9901 Lori Road)
5th Floor, Room 504)
Chesterfield, VA 23832)

Defendants.)
-----)

COMPLAINT

COMES NOW Plaintiff, Patricia Moore-King and files this lawsuit asserting her rights under the First and Fourteenth Amendments of the United States Constitution and the federal Religious Land Use and Institutionalized Persons Act, 42 U.S.C. §§ 2000cc *et seq.*, to provide services as a spiritual counselor in the County of Chesterfield, Virginia. Ms. King seeks relief from this Court to enjoin certain statutes, ordinances and governmental actions that prevent her from engaging in spiritual counseling in Chesterfield County.

JURISDICTION

1. This action arises under the authority vested in this Court under 42 U.S.C. §§ 1983 and 1988; 28 U.S.C. § 1331; 28 U.S.C. §§ 2201 and 2202; 28 U.S.C. § 1343(a)(3); and

42 U.S.C. § 2000cc, *et seq.* Venue is proper in this Court.

PARTIES

2. Patricia Moore-King, also known as Sophie King, is a spiritual counselor who resides at 9225 Chatham Grove Lane, Richmond, Virginia in Chesterfield County, Virginia.

3. Defendant Chesterfield County is a chartered county governed by a Board of Supervisors comprised of five (5) members and is administered by a County Administrator appointed by the Board of Supervisors.

4. Defendant James J. L. Stegmaier has been joined in his official capacity as the County Administrator for Chesterfield County. The administration and enforcement of the County's ordinances fall within the oversight and enforcement of the Office of the County Administrator and Mr. Stegmaier.

5. Defendant Joseph A. Horbal has been joined in his official capacity as the Commissioner of Revenue of Chesterfield County. Mr. Horbal is responsible for administering and enforcing business licenses and taxes for the County and reports to the County Administrator.

6. Defendant Thierry G. Dupuis has been joined in his official capacity as the Chief of Police for Chesterfield County and reports to the County Administrator and Board of Supervisors. The Chief of Police is charged with administering and enforcing the County's Code, including County Code Section 15-246.

FACTUAL ALLEGATIONS

Sophie King

7. Sophie King is a spiritual counselor and seeks to provide spiritual counseling

services in Chesterfield County.

8. Ms. King's spiritual counseling activities are motivated by fundamental religious principles and beliefs.

9. Ms. King's spiritual counseling activities involve helping each individual client learn how to help themselves and to achieve spiritual enlightenment, balance of mind-body-spirit-soul, explore their consciousness and conscious choices, and healing, working within their personal religious and spiritual beliefs.

10. Ms. King has been practicing as a spiritual counselor for seventeen years. She utilizes a variety of methodologies and techniques that are tailored to the client's specific spiritual needs and goals. She sincerely believes in a counseling method that includes Tarot, Reiki, energy healing, astrology and psychic, clairvoyant, clairaudient, and medium abilities.

11. Ms. King's spiritual counseling involves religious beliefs and exercise, and expressive activity.

12. Ms. King has written two books on reading Tarot cards and offers courses in reading Tarot cards. She encourages her clients and her students to read books by various different authors in esoteric wisdom, philosophy and psychology. She has appeared on a local Richmond radio station and has written articles for a local publication, including an article about pseudo-psychics and their methods. She has volunteered her services for the benefit of local charities and has provided her services for a reduced fee or free of charge on numerous occasions to clients who could not afford to pay.

13. Her clients voluntarily seek her services and she is compensated at an established

rate. The purpose, nature and duration of each session are determined by the client in consultation with Ms. King. Each client establishes his or her own specific goals and determines which methodologies and techniques will be employed during each counseling session.

14. Ms. King's clients are typically seeking information and advice concerning their personal relationships with their spouses, children, parents or other family members or personal or business finances. Ms. King works with her clients to help them achieve a greater understanding of their lives and how their spiritual health affects their interpersonal relationships and life decisions.

15. Similar to those seeking other types of counseling services, her clients seek spiritual counseling on a regular basis and often develop an ongoing counseling relationship with Ms. King.

Chesterfield's Business License Requirements

16. Pursuant to Section 6-2 of the Chesterfield County Code, all persons operating a business within Chesterfield County are required to obtain a business license. Accordingly, the same provision states that "it shall be unlawful to engage in any licensable business activity without first obtaining the required license."

17. Under Section 6-7 of the Chesterfield County Code, certain businesses are subject to additional requirements and heightened scrutiny by County officials as specified in Chapter 15 of the County Code in order to obtain a business license. Those subject to these additional requirements and heightened scrutiny include "fortune-tellers," massage clinics, nightclubs, adult businesses, residential solicitors, precious metal dealers and taxis.

18. The Chesterfield County Code of Ordinances defines a “fortune -teller” as

[A]ny person or establishment engaged in the occupation of occult sciences including a fortune-teller, palmist, astrologist, numerologist, clairvoyant, craniologist, phrenologist, card reader, spiritual reader, tea leaf reader, prophet, psychic or advisor or who in any other manner claims or pretends to tell fortunes or claims or pretends to disclose mental faculties of individuals for any form of compensation.

19. Based on her spiritual activities, Ms. King falls within the County of Chesterfield’s definition of a “fortune-teller.” Ms. King does not identify herself as a “fortune-teller” because she does not “predict the future” but rather relays information that she receives without knowing how it relates to the individual client or its specific chronological significance. Ms. King believes that the word “fortune-teller” has negative connotations and mischaracterizes the nature of her work.

20. Ms. King’s spiritual counseling is also defined by the County of Chesterfield to be “the occupation of occult sciences.”

21. County Code § 6-1, however, permits the following:

Nothing contained herein shall be construed to apply to a person pretending to act as a fortune-teller in a properly licensed theater as part of any show or exhibition presented therein or as a part of any play, exhibition, fair or show presented or offered in aide of any benevolent, charitable or educational purpose.

22. The Code therefore favors those “pretending to act” as fortune-tellers over those who genuinely hold personal and spiritual beliefs involving what the County characterizes as the “occult sciences” or utilizing those select skills and methodologies categorized as part of the “occult sciences” by the County Code, and exempts the former from the requirements imposed by the County Code of Ordinances.

23. Section 15-246 of the Chesterfield County Code states that “every person desiring a business license to operate as a fortune-teller shall first apply for and obtain a permit from the chief of police or his designee to conduct such activity.” The application requirements include, *inter alia*:

- “A certificate signed by five county citizens attesting that the applicant is of good character and honest demeanor and is a bona fide county resident;” and
- “Written authorization to conduct a background investigation, including a criminal record check”.

24. Of the uses subject to additional application requirements under Section 6-7, only “fortune-tellers,” “massage clinics,” “adult businesses,” “door-to-door solicitors,” and “precious metal dealers” are required to authorize a background investigation including a criminal record check. County Code §§ 15-15-94 (massage clinics); 15-122.1 (adult businesses); 15-133 (precious metal dealers); 15-162 (solicitors); and 15-246 (fortune-tellers).

25. However, only those who are deemed by County officials in their discretion to be “fortune-tellers” are required to provide a certificate signed by five (5) residents stating that the applicant is of “good character and honest demeanor” and is “a bona fide county resident” or otherwise obtain a permit from the chief of police. No other applicant for any business license is subject to this requirement.

26. Other (non-“fortune-teller”) spiritual or secular counselors are not required to provide a certificate signed by five (5) residents stating that the applicant is of “good character and honest demeanor” and is “a bona fide county resident.”

27. The County Code treats “fortune-tellers” differently and worse than every other

counselor, religious entity, or even any business subject to additional application requirements under Section 6-7 and subjects “fortune-tellers” to a higher level of governmental scrutiny than any other listed business, including adult businesses.

28. No other operator of a business, including those listed under Section 6-7, must be a resident of Chesterfield County in order to obtain a business license.

29. No other operator of a business, including those listed under Section 6-7, must provide a certificate signed by five (5) county residents attesting to their “good character and honest demeanor.”

30. Even the operators of adult businesses are not required to be County residents and are only required to submit the “[n]ames and addresses of references,” not a certificate signed by five (5) residents attesting to the character, demeanor and residency status of the applicant.

Review by County Chief of Police

31. The submission of a complete application that includes all of the required information does not ensure that a business license will be granted. County Code § 15-246(c) provides:

The chief of police, or his designee, shall conduct an independent investigation and determine whether the statements contained in the required certificate are true.

32. Chesterfield’s Chief of Police (or his designee) must therefore independently investigate and determine whether a “fortune-teller” is “is of good character” before a business license will be granted.

33. Chesterfield’s Chief of Police (or his designee) must also independently

investigate and determine whether a “fortune-teller” has an “honest demeanor” before a business license will be granted.

34. The County Code contains no limits on the discretion of the Chief of Police in making such investigation and determination of a “fortune-teller’s” good character and demeanor.

35. This additional scrutiny is only required for those engaged in the so-called “occult sciences.”

36. An application is not complete unless the applicant also authorizes the chief of police or his designee to conduct a background investigation including a criminal record check.

37. There is no statutory or regulatory right for the applicant to be provided with a copy of the background investigation, criminal record check or independent investigation conducted by the chief of police or his designee.

38. There are no statutory or regulatory procedures entitling an applicant to provide evidence demonstrating his or her good moral character. Instead, the applicant must rely on individuals willing to sign the certificate and await the chief of police’s decision based on information that the applicant did not provide and to which he or she does not have access.

39. There are no statutory or regulatory procedures to provide an applicant with any opportunity to contest, refute, explain or supplement the information obtained by the chief of police and used as the basis for his decision.

40. The application may be denied if the investigation reveals that the applicant “has been convicted of a felony or a crime involving moral turpitude, has been denied a permit or has

had a permit revoked under any statute or ordinance similar in substance to the provisions of this article, or is not of good moral character.” County Code § 15-246(d) (emphasis added).

41. The County Code also provides the grounds and procedural requirements for the revocation of an issued business license. A fortune-tellers’ business license may be revoked or suspended by the chief of police “(i) for fraud, misrepresentation or any false statements contained in the application; (ii) upon conviction of the applicant for any felony or misdemeanor involving moral turpitude after the permit is issued; (iii) for failure to comply with the provisions of this article; or (iv) if the applicant’s business fails to comply with applicable county or state laws or regulations.” County Code § 15-246(e).

42. The County Code provides no due process or grounds for meaningful review of the Chief of Police’s revocation of a fortune teller’s business license except for further review by the Chief of Police or his designee. County Code § 15-246(f).

Chesterfield County’s Business License Fee and Business Tax Requirements

43. Under County Code § 6-4, every business requiring a business license must pay a fee if the total gross receipts generated by the licensed business activity are greater than \$10,000 but less than \$200,000 during the base year. If the total gross receipts are under \$10,000 for the year, the fee amount is zero (\$0.00); if they are over \$10,000 but less than \$200,000, the fee is ten dollars (\$10.00).

44. New businesses, meaning any business not in existence prior to January 1 of the base year, must pay the County license fee prior to beginning their business.

45. In addition to the license fee, businesses in Chesterfield County must pay a

business tax pursuant to Section 6-23 of the County Code. The amount of the business tax is also based on gross receipts for the taxable year.

46. Contrary to the licensing fee, the business tax only applies to businesses whose gross receipts exceed \$200,000 in the taxable year. If the business comes into existence after January 1 of the base year, it must provide an estimate of anticipated gross receipts. However, the actual tax to be paid is determined by the actual gross receipts, and not an estimate. County Code § 6-24.

47. County Code Section 6-18 provides:

If a person who is required under the provisions of this chapter to file an application shall fail or refuse to file such application, the commissioner of the revenue shall make an estimate of the amount of license taxes and fees due the county by such person upon the best information available and assess the license taxes and fees on the basis of that information.

48. Under County Code Section 6-24, penalties and interest can accrue on such estimates and the County will refund any payments, including penalties and interest paid, where a business pays more than the true amount owed based on actual gross receipts.

49. Under County Code Section 6-15, the County may impose penalties and fines for failure to pay, late payment or incorrect payment of the license fee or business tax. If a new business fails to pay the fee or tax within 30 days of beginning business activities, the County may impose a one percent (1%) penalty or two dollars (\$2.00), whichever is greater, for each day that the tax and/or fee goes unpaid. In addition, “[i]f any assessment of tax by the commissioner of the revenue is not paid within 30 days, the treasurer may impose a ten percent late payment penalty.” Chesterfield County Code § 6-15(b). And such interest continues to accrue on the late

payment until it is paid regardless of duration. Under Section 6-20, the County Commissioner of Revenue may suspend or revoke the business license for failure to pay the applicable business license fee and/or assessed business taxes.

50. Section 6-44 of the Chesterfield County Code states: "Every fortune-teller within the county shall pay a license tax of \$300.00. Any person who acts as a fortune-teller without a license shall be fined not less than \$50.00 nor more than \$500.00 for each such offense."

51. The only other businesses subject to a similar tax include circuses and carnivals, mixed alcoholic beverage retailers seating over 100 people, itinerant merchants and peddlers. Operators of adult businesses and nightclubs, by contrast, are required to pay only one hundred dollars (\$100.00) per year in additional flat taxes.

County Actions Against Ms. King

52. On August 24, 2009, Ms. King received a formal Notice of Action dated August 19, 2009 from the Office of the Commissioner of Revenue of Chesterfield County. The Notice indicated that, as of August 24, 2009, she owed three hundred forty-three dollars and seventy-five cents (\$343.75). The Notice states that she owes a "tax" of three hundred dollars. The "explanation of billing" states that the assessment is for a business license for the license classification as a "fortune teller." The additional amounts include a thirty dollar (\$30.00) late payment penalty and thirteen dollars and seventy-five cents (\$13.75) in accrued interest.

53. The Notice of Action is not merely a standard assessment of an estimated tax. It also serves as formal notice that Chesterfield County has determined that Ms. King is a "fortune-teller," and that she must obtain a "Police Permit" in order to obtain the required business

license. The Notice lists her license classification as "fortune-teller." And, in large bold font just below the heading, the following statement appears: "Police Permit MUST be obtained prior to issuance of License."

54. The County Commissioner of Revenue has therefore made a formal determination that Ms. King is a "fortune-teller" under the County Code and that she is required to submit to the police background check, criminal record check and independent investigation by the Chief of Police or his designee in order to obtain a business license to provide spiritual counseling services in Chesterfield County.

55. Ms. King cannot obtain a certificate signed by five (5) residents stating that the applicant is of "good character and honest demeanor" and is "a bona fide county resident" as she does not know five such residents that can make such a certification.

56. Ms. King moved to Chesterfield County in late October, 2008. Ms. King officially began her spiritual counseling activity in Chesterfield County in March of 2009. From March through August 14, 2009, Ms. King counseled clients in individual sessions for set fees. Because she had never before operated a formal business as a spiritual counselor, she was not aware that she was required to obtain a business license from Chesterfield County.

57. On or about July 11, 2009, Ms. King received a telephone call from someone claiming to be a Chesterfield County official. That person asked whether she had obtained a business license to operate in Chesterfield County. The unidentified caller stated that she was required to obtain a business license. The caller refused to provide their name, their title or their telephone number.

58. Shortly after she received the telephone call from the unidentified Chesterfield County official inquiring about her business license, on or about August 6, 2009, she went to the Commissioner of Revenue and registered her business and attempted to apply for a business license.

59. At that same time, she was informed of the County's business license fee and business tax. Ms. King brought with her an estimate of her gross receipts for 2009 at less than \$10,000. This estimate was based on and included actual receipts dating back to March 2009. Ms. King offered to provide the estimate to the Commissioner of Revenue but was never asked to actually provide it.

60. Ms. King readily provided the County with information about the nature of her business activities, including the location of her office, the terms of her lease, whether and where she had placed advertisements and the address of her website.

61. During her conversations with the clerk and supervisor in the office of the Commissioner, the Business License Inspector and with police detectives, Ms. King was repeatedly asked about her religious beliefs, including whether she was affiliated with any recognized church or traditional established religion. Ms. King attempted to explain to County officials that she is not a "fortune-teller" as she is not interested in or concerned with future events but rather with her clients' personal spiritual progress and with improving their lives through spiritual engagement.

62. Despite Ms. King's honest efforts, the Commissioner determined, in his discretion, that Ms. King is a "fortune-teller" and not a spiritual counselor.

63. Ms. King was not asked to pay any business licensing fee or business tax when she twice attempted to submit a business license application. Nor was any business license fee or business tax estimate provided to her when she offered the estimate of her gross receipts for 2009.

64. However, shortly after the office of the Commissioner of Revenue refused to accept her business license application, she received the formal Notice of Action indicating that she owes a business license "tax" in the amount of three hundred forty-three dollars and seventy-five cents (\$343.75).

65. As a direct result of the County's refusal to issue her a business license, various threats made by County officials and her receipt of this Notice of Official Action, Ms. King has ceased her spiritual counseling and has not earned any revenue whatsoever from her counseling services since August 14, 2009.

Chesterfield County's Zoning Regulations

66. Under Chapter 19 of the County Code which governs zoning, "fortune-tellers" are not permitted in any district in Chesterfield County except the General Business District (also known as the "C-5" district).

67. The Code states that "[t]he purpose and intent of the General Business (C-5) District is to provide areas primarily for motor vehicle oriented uses."

68. There are no large contiguous areas zoned C-5 in the County. Instead, there are multiple C-5 districts, each encompassing only a few parcels, scattered among other larger commercial business districts.

69. Other uses required to be located in the C-5 district include adult businesses, pawnbrokers, auction houses, material reclamation yards, and vehicle impoundment lots.

70. Spiritual counselors deemed to be "fortune-tellers" by the County are therefore restricted to the C-5 district based solely on the content of their speech and the nature of their religious or spiritual beliefs and not on the nature of the use itself and the impacts it will have on the surrounding neighborhood.

71. "Fortune-tellers" do not generate noxious fumes, vibrations, noises or other similar effects generated by many of the other industrial uses permitted in the C-5 district. They do not generate traffic impacts like the permitted assembly uses.

72. "Fortune-tellers" do not generate negative secondary impacts (as has been well-documented for adult businesses). Upon information and belief, there is no evidence relied upon by the County suggesting that such impacts exist or where relied upon.

73. There is no rational reason why "fortune-tellers" are restricted to a single type of zoning district that applies to a relatively small number of parcels dominated by outdated buildings and inappropriate neighboring uses.

74. The negative treatment of "fortune-tellers" is motivated by official hostility to individuals based on the viewpoint and content of their speech, and their spiritual beliefs.

75. Even within the C-5 districts, fortune-tellers are not permitted by right. They are listed as a conditional use ("CU") (*see* Chesterfield County Code, § 19-175(f)) and are therefore subject to heightened scrutiny. Chesterfield County Code § 19-175(j) states:

Before the planning commission and board of supervisors hear an application pursuant to this subsection, the director of planning shall consider, among other

things, the following: the size and proposed configuration of the site; the size, height and exterior architectural appearance of any proposed structure or structures; noise; light; glare; odors; dust; outdoor activities; traffic; parking; signage; and hours of operation. Based on these considerations, he shall determine that the proposed use's operating characteristics are substantially similar to, and its impact on neighboring properties no greater than, the operating characteristics and impacts of the specifically enumerated uses allowed in this district.

76. In order to obtain a conditional use permit, the application must undergo review by the director of the County Planning Department. The application is then subject to review by both the Planning Commission and the Board of Supervisors. Both bodies must approve the application before a permit is issued and such approval may be made contingent on additional conditions imposed by either body. This grants both the Planning Commission and the Board of Supervisors great discretion. Such discretion may be used to exclude a use deemed inconsistent or incompatible with the County's planning goals or to impose onerous conditions that make the proposed use impracticable.

77. Ms. King's office—where she had been counseling clients prior to being shut down by the County—is located at 1241 Mall Drive, Richmond, Virginia, which is within the County's Community Business zoning district (also known as the C-3 district).

78. The County Code states that “[t]he purpose and intent of the C-3 District is to permit community-scale commercial development to include shopping centers which serve community-wide trade areas and promote public convenience and accessibility. Toward this end, mixed use projects containing commercial, office and residential townhouse/residential multifamily uses should be encouraged.”

79. Permitted uses in the C-3 zoning district include offices, massage clinics,

churches, health clubs, nightclubs, fraternal uses, theaters, restaurants, medical facilities and clinics, hospitals, hotels, liquor stores and taxidermists.

80. Various other tenants in her building at 1241 Mall Drive include numerous psychologists, family and marriage counselors and a financial services company.

81. The other uses at 1241 Mall Drive are permitted in the C-3 zoning district.

82. The various County Code provisions that operate to prevent Ms. King from engaging in her spiritual counseling activity are not supported by a rational, important or compelling governmental interest.

83. The substantial burden imposed upon the Plaintiff affects commerce among the several States.

84. At all times relevant hereto, Defendants were acting under color of law and pursuant to official policy or custom.

85. Plaintiff has no adequate remedy at law for the harm and damage caused by Defendants' wrongful laws and actions.

CAUSES OF ACTION

COUNT I

Freedom of Speech: First and Fourteenth Amendments

42 U.S.C § 1983

86. Paragraphs 1 through 85 are incorporated by reference as if set forth fully herein.

87. Ms. King's spiritual counseling involves expressive activity and pure speech protected under the First Amendment of the United States Constitution. "Fortune-telling," the

use of Tarot cards and the practice of acting as a medium are all forms of expressive conduct that constitute speech protected by the First Amendment of the United States Constitution.

88. Chesterfield County's business licensing requirements in conjunction with its zoning regulations inhibit and prevent Ms. King from engaging in such speech and forms of conduct. Ms. King has been forced to cease operating her business as a spiritual counselor.

89. Chesterfield County's zoning regulations, which prohibit Ms. King from operating her business as a spiritual counselor in any zoning district other than the C-5 district, inhibit her freedom of expression and discriminate against her based on her beliefs and the viewpoint and content of her expression in violation of her rights under the First Amendment of the United States Constitution.

90. Chesterfield County's zoning regulations unreasonably restrict the activities of persons deemed to be "fortune-tellers" to one commercial zoning district despite the absence of any evidence of negative primary or secondary impacts generated by such activities and without any rational or compelling governmental interest justifying such restrictions.

COUNT II

Free Exercise of Religion: First and Fourteenth Amendments

42 U.S.C. § 1983

91. Paragraphs 1 through 90 are incorporated by reference as if set forth fully herein.

92. Ms. King engages in religious exercise protected by the First Amendment of the United States Constitution when she provides spiritual counseling to clients.

93. Chesterfield County's Code of Ordinances, which defines a "fortune-teller" as a

person who practices “occult sciences,” is facially unconstitutional under the First Amendment of the United States Constitution because it restricts and/or prohibits certain types of religious activities.

94. Chesterfield County’s Code of Ordinances is unconstitutional under the First Amendment of the United States Constitution as applied to Ms. King because it discriminates against her and her beliefs, and because it restricts and/or prevents her from engaging in certain types of religious exercise, specifically any activity deemed to be “fortune-telling” as defined by the County Code, without any compelling governmental interest.

95. Chesterfield County’s zoning regulations, which prohibit Ms. King from acting as a spiritual counselor in any zoning district other than the C-5 district, inhibit her free exercise of religion and discriminate against her based on her beliefs and practices in violation of her rights under the First Amendment of the United States Constitution.

COUNT III

Equal Protection: Fourteenth Amendment

96. Paragraphs 1 through 95 are incorporated by reference as if set forth fully herein.

97. Chesterfield County’s Code of Ordinances imposes burdensome and invasive business licensing requirements on persons deemed to be “fortune-tellers” that are not required of any other similarly situated person seeking to conduct similarly situated activities in Chesterfield County.

98. Chesterfield County has determined that, under the County Code of Ordinances, Ms. King’s spiritual counseling activities constitute “fortune-telling” whereas other spiritual counselors or non-spiritual counselors are not categorized in a similar manner and therefore are

not subject to additional business licensing requirements and zoning restrictions.

99. Chesterfield County's Code of Ordinances subjects "fortune-tellers" to business licensing requirements and zoning regulations not required of any other type of counselor or spiritual counselor prior to the issuance of a business license, including zoning, building, plumbing, utility, health, electric and fire prevention reviews, and Chesterfield County has applied those licensing requirements and zoning restrictions to Ms. King in a manner that treats her differently than other spiritual counselors.

100. Chesterfield County's Code of Ordinances fails to provide those deemed to be fortune-tellers with meaningful protection and due process under the law in the event of denial, revocation or suspension of an issued license.

101. Chesterfield County's zoning regulations, which limit activities deemed to be "fortune-telling" to one commercial zoning district and require a subjective and discretionary permit application process, treat "fortune-tellers" differently and worse than any other type of similarly situated land use, or any other land use at all, including secular and religious counselors and adult businesses.

102. Chesterfield County's zoning regulations have been applied to Ms. King in a manner that restricts her activities to the C-5 zoning district and prevents her from using a suitable office building located in the C-3 zoning district that is occupied by other types of counselors solely due to the County's subjective determination that the nature and content of Ms. King's spiritual counseling practices renders her a "fortune-teller" in Chesterfield County.

COUNT IV

Religious Land Use & Institutionalized Persons Act

42 U.S.C. § 2000cc(a)

103. Paragraphs 1 through 102 are incorporated by reference as if set forth fully herein.

104. Chesterfield County has deprived and continues to deprive Ms. King of her right to free exercise of religion, as secured by the Religious Land use and Institutionalized Persons Act, 42 U.S.C. § 2000cc(2)(a), by implementing and imposing land use regulations that impose a substantial burden on Ms. King's sincerely held religious beliefs and religious exercise without using the least restrictive means of furthering any compelling governmental interest.

COUNT V

Religious Land Use & Institutionalized Persons Act

42 U.S.C. § 2000cc(b) (Equal Terms)

105. Paragraphs 1 through 104 are incorporated by reference as if set forth fully herein.

106. Chesterfield County has deprived and continues to deprive Ms. King of her right to free exercise of religion, as secured by the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 2000cc(2)(b)(1), by implementing and imposing land use regulations in a manner that treats a religious assembly or institution on less than equal terms as a nonreligious assembly or institution.

COUNT VI

Religious Land Use & Institutionalized Persons Act

42 U.S.C. § 2000cc(b) (Nondiscrimination)

107. Paragraphs 1 through 106 are incorporated by reference as if set forth fully herein.

108. Chesterfield County has deprived and continues to deprive Ms. King from her right to free exercise of religion, as secured by the Religious Land use and Institutionalized Persons Act, 42 U.S.C. § 2000cc(2)(b)(2), by imposing and implementing its land use regulations in a manner that discriminates against Ms. King on the basis of religion or religious denomination.

COUNT VII

Religious Land Use & Institutionalized Persons Act

42 U.S.C. § 2000cc(b) (Unreasonable Limits)

109. Paragraphs 1 through 108 are incorporated by reference as if set forth fully herein.

110. Chesterfield County has deprived and continues to deprive Ms. King of her right to free exercise of religion, as secured by the Religious Land use and Institutionalized Persons Act, 42 U.S.C. § 2000cc(2)(b)(3)(B), by imposing and implementing land use regulations that unreasonably limit religious assemblies or institutions within a jurisdiction.

PRAYERS FOR RELIEF

WHEREFORE, the Plaintiff respectfully requests that this Court grant the following relief:

- A. Declare that the business licensing requirements applicable to “fortune-tellers” under Chesterfield County Code of Ordinances, §§ 6-7 (as applied to “fortune-tellers”), 15-246, 19-175(f), and the Notice of Action issued by the County Commissioner of Revenue are void, invalid and unconstitutional as violating the

Free Speech and Free Exercise protections of the First Amendment to the United States Constitution, the right to Equal Protection of law as provided by the United States Constitution, and the Religious Land Use and Institutionalized Persons Act of 2000;

- B.** Permanently enjoin the County, the County Administrator, the Commissioner of Revenue, the Chief of Police and the officials, agents and employees working thereunder to issue a business license to the Plaintiff without delay or condition;
- C.** Permanently enjoin the County, the County Administrator, the Commissioner of Revenue, the Chief of Police and the officials, agents and employees working thereunder to approve the use of office space by the Plaintiff in any and all zoning districts in which secular counselors of any type are permitted;
- D.** Permanently enjoin the County, the County Administrator, the Commissioner of Revenue, the Chief of Police and the officials, agents and employees working thereunder from enforcing County Code Sections 6-44, 15-264, and the limitations of the County Zoning Ordinance applicable to “fortune-tellers” to Ms. King;
- E.** Award nominal and compensatory damages against the Defendant in favor of the Plaintiff as the Court deems just for the loss of her rights to free speech and free exercise of religion and deprivation of Plaintiff’s right to equal protection and due process under the law caused by Defendants’ laws and actions;
- F.** Award the Plaintiff full costs and attorneys’ fees arising out of Defendants’ actions; and

G. Grant such other and further relief as this Court may deem just and appropriate.

DEMAND FOR JURY

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

Date: December 18, 2009

Respectfully submitted,



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