

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

EGYPT HOUSE,
Plaintiff,

v.

JOHN P. KELLEY, as an Individual and in his capacity as Chairman of the Board of Assessors, WILLIAM J. WILLIS, as an Individual and in his capacity as Member of the Board of Assessors, JONATHAN LEDERMAN, as an Individual and in his capacity as Member of the Board of Assessors, TODD LARAMIE, as an Individual and in his capacity as Assistant Assessor, KAREN D. BERTOLINO, as an Individual and former Assistant Assessor, MICHAEL TUMULTY, as an Individual, in his capacity as Assistant Assessor (ret.), and Consultant to the Town of Marblehead, DOUGLAS E. PERCY, as an Individual and in his capacity as Member of Board of Assessors, BOARD OF ASSESSORS, TOWN OF MARBLEHEAD, the TOWN OF MARBLEHEAD, a Massachusetts Township, THATCHER W. KEZER, III, as an Individual and in his capacity as Town Administrator, LISA L. MEAD, as an Individual and in her capacity as Town Counsel, ADAM J. COSTA of Mead, Talerman & Costa, LLC, as an Individual and in his capacity as counsel to the Town of Marblehead, and MATTHEW D. PROVENCHER of Mead, Talerman & Costa, LLC, as an Individual and in his capacity as counsel to the Town of Marblehead, Defendants.

Civil Action No.: 1:25-cv-10597-BEM

**FOURTH AMENDED AND RESTATED
VERIFIED COMPLAINT AND JURY
DEMAND**

I. INTRODUCTION

1. This action is about Defendants' individual and collective efforts to prevent Egypt House from existing by improperly denying Egypt House access to certain tax benefits that other

local religious organizations receive because Defendants disfavor the kind of religious expression engaged in by Egypt House.

2. In June 2022, Egypt House purchased 12 Conant Road in Marblehead, Massachusetts for the purpose of providing a place of Orthodox Catholic worship, education, and other forms of outreach in keeping with the mission of St. Paul's Foundation of deepening the practice of traditional, apostolic Christianity.

3. The property at 12 Conant Road borders and shares an approximately 90 foot contiguous border with a second property located at 22 Endicott Avenue in Marblehead that is also affiliated with St. Paul's Foundation, Emmaus House. The properties are together used to form the ministry of Annunciation House and the properties are used together as a whole.

4. Promptly following the purchase of Egypt House, it was consecrated and used for worship, religious education, prayer, and Bible study groups, as well as to host pilgrims who came for spiritual direction, marriage counseling, and male clergy housing.

5. Since 2022, Defendants have denied Egypt House the religious property tax exemptions conferred upon religious organizations by M.G.L. c. 59, § 5, Clauses Tenth and Eleventh, while granting full exemptions to property owned by other religious organizations in the Town of Marblehead that do not qualify for such treatment because all or a portion of such properties are dedicated for for-profit commercial (non-exempt) or use not subject to M.G.L. c. 59, § 5, Clauses Tenth and Eleventh. Defendants have also denied Plaintiff's requests for abatement under M.G.L. c. 59, § 5, Clause Third.

II. JURISDICTION AND VENUE

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

7. This Court has supplemental jurisdiction over state law claims under 28 U.S.C. § 1367(a) because they share a common nucleus of operative facts with the federal law claims.

8. Venue is proper under 28 U.S.C. § 1391(b)(2) because a substantial part of the events and omissions giving rise to the claim occurred in this district.

III. PARTIES

9. Plaintiff Egypt House is a religious nonprofit corporation incorporated in the District of Columbia and is a 501(c)3 organization under the I.R.C.

10. Defendant Town of Marblehead is a Massachusetts municipality.

11. Defendant Board of Assessors is the elected Town board responsible for property tax assessments for the Town of Marblehead.

12. Defendants Kelley, Willis, and Lederman are members of the Board of Assessors, sued in individual and official capacities.

13. Defendant Percy is a former elected member of the Board of Assessors, sued in individual and official capacities.

14. Defendant Laramie is Assistant Assessor, sometimes referred to as Town Assessor, sued in individual and official capacities.

15. Defendants Bertolino and Tumulty are former Assistant Assessors, sued in individual and official capacities.

16. Defendant Kezer is Town Administrator sued in individual and official capacities.

17. Defendants Mead, Costa, and Provencher are attorneys sued in individual capacities for exceeding the scope of representation and acting beyond any lawful immunity and violations of the Rules of Professional Conduct in the service of deprivation of rights under color of law.

IV. FACTUAL BACKGROUND

A. Egypt House and Her Use

18. Egypt House purchased the property located at 12 Conant Road in June 2022 for religious purposes.

19. The property contains a consecrated Orthodox Catholic chapel with the Holy Eucharist, holy relics, sacred vessels, and religious icons, including holy relics of Saint Andrew the First-Called Apostle, Saint Basil the Great, Saint Minas of Egypt, Saint Valerian of Rome, Saint Boniface, a piece of the coffin of Saint Nectarios of Aegina, and dirt from the baptismal site of Our Lord and Savior Jesus Christ, sacred vessels used for Holy Communion, and hand-written icons written according to Orthodox tradition.

20. Egypt House hosts major Orthodox feast celebrations including Pascha, Nativity, Theophany, and the Dormition of the Mother of God.

21. Egypt House uses the property exclusively for religious worship, clergy housing, religious education, and pilgrim accommodations.

22. Orthodox Catholic religious law strictly prohibits photography of consecrated spaces when such photography could be used to denigrate and requires only ordained clergy are permitted to handle sacred objects, with violation constituting desecration requiring formal reconsecration.

23. Defendants Board of Assessors and each of them denied Egypt House's exemption applications relative to Fiscal Years 2022 (stub period), 2023, 2024, and 2025, requiring semi-annual tax payments that divert funds from religious mission activities including clergy support, pilgrim hospitality, and religious education materials.

24. The threat of tax foreclosure for non-payment creates ongoing fear among clergy and the faithful that the consecrated chapel will be seized and religious exercise terminated.

25. The statutory exemption for religious organizations is codified at G.L. c. 59, § 5, Clauses Tenth and Eleventh.

26. As a condition precedent to recognition of the religious organizations exemption, the subject property must be owned by a religious organization and used for religious purposes.

27. The statutory exemption for non-profit organizations is codified at G.L. c. 59, § 5, Clause Third.

28. As a condition precedent to recognition of the non-profit exemption, the subject property must be owned by a nonprofit organization and used in furtherance of the purpose of the subject nonprofit.

29. Egypt House is owned by a religious non-profit corporation and used solely in the conduct of its ministry.

30. Despite payment of tax installments, though wrongfully assessed and collected, the threat of tax foreclosure for non-payment creates ongoing fear among clergy and the faithful that the consecrated chapel will be seized and religious exercise terminated.

31. In 2022, Egypt House applied for property tax abatement under M.G.L. c. 59, § 5, Clauses Tenth and Eleventh.

32. Commencing in Fiscal Year 2024, Egypt House has also sought abatement under M.G.L. c. 59, § 5, Clause Third.

33. The Board of Assessors denied Egypt House's abatement requests in each of Fiscal Years 2022 (stub period), 2023, 2024, and 2025, despite repeated requests to understand the basis for such denials.

B. Defendants Town of Marblehead and Board of Assessors, Town of Marblehead recognize real property tax exemptions to non-Orthodox religious organizations in the Town of Marblehead under M.G.L. c. 59, § 5, Clauses Tenth and Eleventh

34. According to Monsignor Timothy J. Moran (“Msgr. Moran”), Pastor of the Roman Catholic parish of Our Lady Star of the Sea (“Roman Catholics”), located at 85 Atlantic Avenue in Marblehead, for over three decades the Roman Catholics have leased “about six classrooms” and associated common areas, including a large fenced in outdoor playground area, to the Seaside Nursery, a for-profit daycare center.

35. Msgr. Moran states the Seaside Nursery was sold about three years ago to a long-time employee who has worked at Seaside Nursery for approximately thirty years.

36. Both Msgr. Moran and Fire Chief Jason Gilliland, also member of the Parish Council, know the Roman Catholics received thirty years’ of rental income, with no payment of real property taxes therefor or apportionment of taxes assessed.

37. The Jewish Community Center of the North Shore (“JCC”), located at 4 Community Road in Marblehead is a non-profit cultural center, not a synagogue.

38. Under M.G.L. c. 59, § 5, Clause Third, non-profit organizations seeking recognition of the Clause Third exemption are required to file an annual report on State Form 3ABC with Defendant Board of Assessors. In connection with discovery on another matter, no records show that the JCC has every sought an abatement under any of M.G.L. c. 59, § 5, Clauses Third, Tenth, or Eleventh, nor is there evidence of any Form 3ABC submissions.

39. On information and belief, the JCC is treated as an exempt property and pays no real property taxes to Defendant Board of Assessors.

40. According to Fire Marshal Captain Gregg McLaughlin (“Capt. McLaughlin”), the JCC is party to multiple cell phone repeater leases by and between Verizon in 2020, Verizon

2021, and Dish Wireless in 2022, among others, in each case, in consideration of the payment of rent for which no apportionment is made, *i.e.*, commercial v. exempt use.

41. Jennifer Lederman is the President of the Board of Directors of the JCC. According to statements published online, Jennifer Lederman is married to Jonathan Lederman, a Defendant in this action. Defendant Lederman voted to deny Egypt House any exemption recognition under M.G.L. c. 59, § 5, Clauses Third, Tenth, or Eleventh.

42. Clifton Lutheran Church (“Lutherans”), located at 150 Humphrey Street in Marblehead, has been a party to at least one cell phone mast lease with respect to a cell tower located inside the church bell tower during the period was seeking an exemption. Capt. McLaughlin wrote “Spectrum Wireless” was installed in 2003, another “wireless” was installed in 2018, and the “cell demo 2023” (understood to mean removal of the cell phone tower).

43. In another matter when apportionment records were requested, no records of apportionment of real property taxes for the Lutherans were provided.

44. Upon information and belief, the Lutherans have received twenty years of rental income, with no real estate tax apportionment by Defendant Board of Assessors.

45. According to Capt. McLaughlin, the Methodist parish of St. Stephen’s (“Methodists”) located at 67 Cornell Road, Marblehead, leased its steeple in 2020 to T-Mobile, in 2014 to AT&T, received a permit in 2021, and another permit in 2024 to “swap antennae.” On information and belief, usage by each provider is in consideration of the payment of rent.

46. In another matter when apportionment records were requested, no records of apportionment of real property taxes of the Methodists at 67 Conant Road in Marblehead for the rental area of a cell phone tower. On information and belief, the Methodists received fifteen

years of rental income for cell phone tower usage at this site for which no real estate tax apportionment occurred.

47. The Methodists also currently lease space to the Ocean Breeze School which, on information and belief, is unaffiliated with the Methodist faith or St. Stephen's parish.

48. When Forms 3ABC were requested for Ocean Breeze School, no such forms were provided.

49. Until November 2024, the Methodists owned a single family house on 18 Cedar Street in Marblehead for a parsonage. This use was determined to be "Church/Temple" by the Marblehead Board of Assessors according to Patriot Property records.

50. The Congregationalist parish of the First Church of Christ, also known as Old North Church ("Congregationalists"), allows a substantial portion of its parking lot to be used by the J.N. Picariello Construction Company. This company is owned by a relative of the former Marblehead Chief of Police Robert Picariello. On information and belief, the Congregationalists receive rental income therefor without real property tax apportionment.

51. Unitarian Universalist operates a music and entertainment program called "Me & Thee" coffeehouse. Use by the coffeehouse is claimed to be a part of the religious ministry but features almost exclusively secular musicians and acts. Upon information and belief, there has not been any objection to this practice, i.e., real estate tax apportionment by Defendant Board of Assessors.

52. Upon information and belief, Defendant Board of Assessors has never questioned this use or the religious bona fides of the Unitarian Universalists.

53. When asked about the unrelated, non-religious, use of the properties of the Roman Catholics, JCC, Congregationalists, Methodists, Unitarian Universalists, and Lutherans,

Defendant Laramie states these organizations do not pay apportioned taxes. When prompted by Father Andrew, Defendant Laramie spoke to the Defendant Board of Assessors who stated in response, “[they] didn’t want to take any money from a religious group.”

54. Favored churches receive exemptions without providing clergy letters, without listing worshippers, without invasive requests such as the disclosure of the identities of congregants, pilgrims, guests, and invitees of such religious organizations, and without inspection of their properties by Defendants Board of Assessors or any of them.

55. Defendant Board of Assessors has provided no written criteria for religious exemption determinations and makes case-by-case decisions about which churches to exempt from taxation.

56. Upon information and belief, Defendants have never inspected other churches or apportioned their commercial space for taxation.

C. Egypt House Inspection

57. In 2025, the Town demanded inspection of Egypt House’s interior, as allowed under M.G.L. c. 58A, § 8A.

58. Defendant Board of Assessors and Defendant Provencher insisted on photography. Photography is not enumerated under M.G.L. c. 58A, § 8A.

59. The items Defendant Board of Assessors sought to photograph specifically were altars, icons, and sacred vessels. Defendant Board of Assessors knew this would be adverse to Orthodox Catholic canon law and an inflammatory act in front of Orthodox clergy and faithful.

60. Based on information and belief, and statements of Town of Marblehead officials and former officials, Egypt House and her clergy understood the purpose of this photography was to denigrate Orthodox practice.

61. The photography could have been avoided; however, Defendant Provencher prevented Defendant Kezer and Fire Chief Jason from signing affidavits to the religious nature of Egypt House, as observed by each of them, and prevented Marblehead Building Commissioner Stephen Cummings from issuing a correct certificate of occupancy for Egypt House designating Egypt House as a “convent/monastery;” thereby avoiding the need for an inspection.

62. Building Commissioner Stephen Cummings states he asked Defendant Laramie and others if any other religious institution in Marblehead had been inspected or photographed and was told they had not been photographed or inspected nor had Defendant Board of Assessors sought to touch sacred vessels or enter the altar areas of any churches or Jewish temples.

63. Msgr. Moran states the Defendant Board of Assessors has never sought to photograph the Roman Catholic parish.

64. Msgr. Moran has states it would have been unacceptable for Roman Catholics if Defendant Board of Assessors sought to open the Tabernacle at Our Lady Star of the Sea, but they never requested access to either the altar area or to touch or catalogue the sacred vessels or the Tabernacle of the Roman Catholics.

65. Egypt House attempted to accommodate the Town’s stated inspection needs while protecting religious exercise by offering:

- a. Detailed floor plans showing religious use of all spaces;
- b. Guided tour of non-sacred areas with explanations of religious functions;
- c. Temporary covering of sacred objects during inspection; and
- d. Written attestations from two priests and a bishop about religious use.

66. Defendants rejected all proposed accommodations and demanded unconditional access to touch, inspect, and photograph all areas including consecrated spaces and clergy bedrooms and handle sacred objects.

67. On July 23, 2025, Defendants Kelley, Laramie, and Provencher entered Egypt House and photographed the consecrated chapel over explicit religious objections of clergy.

68. The photography violated Orthodox Catholic religious law requiring reconsecration of the desecrated space.

69. Officials also searched clergy bedrooms.

70. Defendant and former Assistant Assessor Tumulty publicly mocked Father Andrew as “Friar Tumma Tumulty” and called him a “fake monk,” while still serving in his capacity as Assistant Assessor.

71. Defendant Tumulty’s occasional roommate, Johnny Nicastro, known as Johnny Ray, a local bar owner, stated Defendant Tumulty was “right all along about the fake monk.” Upon information and belief, Mr. Nicastro’s comment inferred that Defendant Tumulty stated publicly and frequently enough that such belief was public knowledge, that Father Andrew, the Superior of Egypt House, was a fraud for some years.

72. Defendants Provencher and Costa filed a motion to compel disclosure of the names of worshippers, penitents, and pilgrims on or about September 6, 2023.

73. Subsequent to the September 6, 2023 motion to compel, Defendants Costa, Provencher, and Board of Assessors received letters from Bishop Theophan of Philomelion of the Ecumenical Patriarchate stating revealing the names of those who seek the sacrament of confession is a violation of Orthodox practice. This letter also confirmed the religious use of Egypt and Father Andrew’s capacity as Superior of Egypt House.

74. On September 5, 2025, Defendants Provencher and Costa filed another set of interrogatories requesting lists of the names of worshippers, penitents, and pilgrims.

75. Defendants Board of Assessors, Costa, and Provencher ignored letters from two other Orthodox priests, each of which confirm the religious character of Egypt House while accepting less (or no) documentation from favored churches and non-profits, such as the JCC.

V. CLAIMS FOR RELIEF

First Cause of Action **Violation of 42 U.S.C. § 1983 - First Amendment Free Exercise** *(Against All Defendants)*

76. Plaintiff incorporates paragraphs 1-75.

77. Defendants violated the Free Exercise Clause by denying Egypt House's tax exemption based on its Orthodox Catholic religious character while granting exemptions to other religious organizations.

78. Egypt House qualified for Commonwealth of Massachusetts tax exemptions under any or all of M.G.L. c. 59, § 5, Clauses Tenth and Eleventh.

79. The denial of tax exemptions is an exercise of State power; therefore, Defendants were acting under color of state law when Plaintiff's exemption requests were denied.

80. There is no basis at all for Defendants' denial of the requested exemptions and Defendants have provided no reason for their denials.

81. Defendants do not have written criteria for their review of tax exemption requests.

82. Defendants make decisions regarding tax exemption requests on a case-by-case basis; in each instance, an individualized assessment.

83. Defendants violated the Free Exercise Clause by forcing photography that constitutes desecration under Orthodox Catholic religious law.

Second Cause of Action
Violation of 42 U.S.C. § 1983 - First Amendment Establishment
(Against All Defendants)

84. Plaintiff incorporates paragraphs 1-83.

85. The Establishment Clause prohibits governmental hostility to religion.

86. Defendants demonstrated hostility through forced photography over religious objections and the practice of denominational favoritism.

87. Defendants treated other similarly situated religious organizations differently from Egypt House when they granted their tax exemptions while denying the same benefits to Egypt House.

88. The attempts by Defendants Provencher and Costa to compel disclosure of confessional communications constitutes an egregious establishment clause violation, entangling government with religious sacraments.

Third Cause of Action
Violation of 42 U.S.C. § 1983 – Fourth Amendment – Right to Privacy
(Against Municipal Defendants)

89. Plaintiff incorporates paragraphs 1-88.

90. Defendants violated the Fourth Amendment by conducting an unreasonable search that exceeded the scope of lawful tax assessment inspection, including searching private clergy bedrooms unrelated to tax assessment purposes and photographing religious spaces an action beyond statutory authorization.

Fourth Cause of Action
Violation of 42 U.S.C. § 1983 - Fifth Amendment Takings
(Against Municipal Defendants)

91. Plaintiff incorporates paragraphs 1-90.

92. The Takings Clause prohibits taking property without just compensation.

93. Tax exemption for religious property is a property right under Massachusetts law.

94. Defendants effectuated a taking by depriving Egypt House of its rightful exemption while granting exemptions to similarly situated properties.

95. Defendants lacked any public purpose for the taking(s).

96. Defendants provided Egypt House no compensation for the taking(s).

Fifth Cause of Action
Violation of 42 U.S.C. § 1983 - Fourteenth Amendment – Equal Protection
(Against All Defendants)

97. Plaintiff incorporates paragraphs 1-96.

98. Defendants violated Equal Protection by treating Egypt House differently because they disfavor the kind of religious expression that occurs at Egypt House.

99. The Equal Protection Clause forbids dissimilar treatment of like persons under the law.

100. Defendants violated Plaintiff's clearly established rights under the Equal Protection Clause by subjecting Egypt House to discriminatory treatment based on its religious identity and Orthodox Catholic worship practices.

101. The discriminatory enforcement pattern violates clearly established equal protection law. Defendants grant tax exemptions to religious organizations operating commercial enterprises within exempt structures, while denying exemptions to Egypt House based solely on its Orthodox Catholic religious character. This selective enforcement based on religious denomination violates the fundamental principle of equal treatment under law.

Sixth Cause of Action
Violation of 42 U.S.C. § 1983 - Fourteenth Amendment – Procedural Due Process
(Against Municipal Defendants)

102. Plaintiff incorporates paragraphs 1-101.

103. A claim alleging violations of procedural due process requires a showing of a protected liberty or property interest.

104. Egypt House is a religious organization and fee simple owner of a property used solely for religious purposes.

105. Religious organizations in the Commonwealth of Massachusetts are tax-exempt pursuant to M.G.L. c. 59, cl. 10 and 11.

106. Non-profit organizations in the Commonwealth of Massachusetts are tax-exempt pursuant to M.G.L. c. 59, cl. Third.

107. Egypt House possesses a property right in and to the taxes assessed and collected by Defendants over the past three (3) years (since 2022); in so doing, Defendants deprived Egypt House of its liberty and property interests.

108. The Due Process Clause requires notice and meaningful opportunity to be heard before deprivation of property interests.

109. Egypt House was not provided any meaningful opportunities to be heard.

110. Defendants' determinations were made without any meaningful process whatsoever; determinations were made on a discretionary basis without any reference to any objective criteria; in this instance, determinations were made solely based upon Egypt House's disfavored religious affiliation.

Seventh Cause of Action
Violation of 42 U.S.C. § 1983 - Fourteenth Amendment – Substantive Due Process
(Against All Defendants)

111. Plaintiff incorporates paragraphs 1-110.

112. A claim alleging a breach of substantive due process must show fundamental rights and liberties which are deeply rooted in this Nation's history and tradition have been violated.

113. Egypt House is an Orthodox Catholic monastic residence owned by a religious organization and used solely in the performance of its ministry.

114. The freedom of religion, incapsulated in the First Amendment to the United States Constitution, is one of the core tenets upon which the United States was founded.

115. Defendants' choice to leverage State power to discriminate against Egypt House based on its religion, as alleged, is egregious and would shock the conscience of an ordinary member of society.

116. The actions of Defendants have violated Egypt House's right to substantive due process under the Fourteenth Amendment to the United States Constitution.

Eighth Cause of Action
Violation of 42 U.S.C. § 1983 - Municipal Liability (*Monell*)
(Against Town of Marblehead)

117. Plaintiff incorporates paragraphs 1-116.

118. The Town maintains an official policy or custom of granting blanket exemptions to favored churches while denying them to Egypt House because of its disfavored religious affiliation.

119. The Board of Assessors possesses final policymaking authority over tax exemptions under M.G.L. c. 59 for the Town of Marblehead. The Board's decisions to deny Egypt House's exemption while granting others' represents official municipal policy.

120. The Town acted with deliberate indifference to Egypt House's constitutional rights by: (a) ignoring evidence of religious character from bishops and priests; (b) disregarding

the dismissal of the federal prosecution against Father Andrew “in the interests of justice;” (c) permitting Defendants Costa and Provencher to seek disclosure of confessional communications; (d) allowing forced photography despite warnings of desecration; (e) refusing to follow the practice of other Massachusetts municipalities that accommodate identical religious restrictions; and (f) proceeding with forced photography within Egypt House, over clergy objections, despite the complete absence such invasive measures at synagogues, mosques, or other houses of worship throughout Massachusetts.

Ninth Cause of Action

Violation of 42 U.S.C. § 1983 - Municipal Liability (Pattern or Practice)

(Against Town of Marblehead, John Kelley as an individual, Michael Tumulty as an individual, Karen Bertolino as an individual, Lisa Mead as an individual, Matthew Provencher as an individual, and Adam Costa as an individual)

121. Plaintiff incorporates paragraphs 1-120.

122. The named Defendants are liable under 42 U.S.C. § 1983 based upon the pattern and practice of Defendants in coordinating the systematic violation of Plaintiff’s rights to practice its faith in accordance with its beliefs.

123. Defendants and each of them engage in the systematic engagement of all agencies, departments, employees, elected and designated officials within their sphere of influence to bar the Orthodox Catholic faithful from practicing their faith.

Tenth Cause of Action

Violation of 42 U.S.C. § 1985 - Conspiracy

(Against Individual Defendants Kelley, Willis, Lederman, Laramie, Bertolino, Tumulty, Percy, Kezer, Mead, Costa, and Provencher)

124. Plaintiff incorporates paragraphs 1-123.

125. Defendants conspired to deprive Egypt House of equal protection through coordinated discrimination based on religious animus.

126. Defendants Kelley, Willis, Lederman, Bertolino, Tumulty, Percy, Kezer, Mead, Costa, and Provencher were in consistent communication during the period at issue and worked cooperatively to discriminate against Egypt House based on religious animus. This cooperation towards a single goal strongly supports the existence of any agreement, implicit or explicit, to discriminate against Egypt House in violation of its right to equal protection.

127. Defendants Mead, Costa, and Provencher actively participated in the subject conspiracy, *e.g.*, the motions to compel confessional disclosures filed by Defendants Costa and Provencher are an overt act in furtherance of the conspiracy.

128. Defendants Mead, Costa, and Provencher participated in this conspiracy to violate Egypt House's constitutional rights by providing legal advice supporting discriminatory enforcement and forced photography.

Eleventh Cause of Action
Violation of 42 U.S.C. § 1986 - Neglect to Prevent
(Against Defendants Kezer, Mead, Costa, and Provencher)

129. Plaintiff incorporates paragraphs 1-128.

130. The named Defendants had knowledge of the conspiracy and power to prevent it but failed to act.

131. Despite their ethical obligations to refuse participation in civil rights violations, Defendants Mead, Costa, and Provencher facilitated and advanced the unconstitutional scheme.

Twelfth Cause of Action
Violation of 42 U.S.C. § 2000cc - RLUIPA
(Against Municipal Defendants)

132. Plaintiff incorporates paragraphs 1-131.

133. The Religious Land Use and Institutionalized Persons Act of 2000 (“RLUIPA”) prohibits governments from imposing a substantial burden on religious exercise by a person, including religious assembly.

134. The “substantial burden” element for the purposes of RLUIPA can be evidenced by a substantial burden caused by the implementation of land use regulations by the government where it is entitled to make individualized assessments of the proposed uses of the property involved.

135. The anti-discrimination element of RLUIPA provides that no government shall impose a land use regulation that discriminates basis on religion or religious denomination.

136. Defendants substantially burdened Egypt House’s religious exercise through the individualized assessment and collection of real estate taxes on Egypt House, as well as publicly creating negative associations about the Orthodox Catholic faith through official press releases and malicious behavior by its elected officials, employees, and volunteers.

137. The burden to Egypt House is substantial. The municipal Defendants failure to recognize the tax exemptions threatens the continued existence of Egypt House. Egypt House cannot fully engage in its religious purpose absent the exemption it is entitled to at law.

138. Defendants discriminated against Egypt House by subjecting it to taxation while allowing denominationally favored churches absolute exemption even though several of such churches derive revenues from the use of their property by non-exempt commercial enterprises.

139. In the Town of Marblehead, the Building Commissioner is responsible for enforcing the zoning bylaw.

140. A function of the zoning bylaw is the assignment of use and occupancy codes and issuance of certificates of occupancy.

141. 780 CMR 3.00, at § 310.4, states the specifications for the R-3 use designation; the correct use designation for Egypt House..

142. The R-3 use designation includes “convents or monasteries.”

143. A certificate of occupancy in the Town of Marblehead lists the use designation and the zoning designation.

144. A convent or monastery with less than 5 non-transient occupants is a R-3 use designee with a sub-designation of “convent/monastery, alternatively, “church/temple”.

145. In the Town of Marblehead, property use designations are designated by the Building Commissioner; however, the database within which use designations are catalogued is maintained by the Board of Assessors.

146. Despite the Building Commissioner’s request, Defendants Board of Assessors and each of them refuse to change the use designation to reflect the correct use and occupancy because of Egypt House’s disfavored religious affiliation.

147. Upon information and belief, Defendants Costa and Provencher are controlling the amendment of the use designation as to Plaintiff in defiance of the authority of the Building Commissioner.

Thirteenth Cause of Action
Violation of 18 U.S.C. § 248 - FACE Act
(Against Individual Defendants)

148. Plaintiff incorporates paragraphs 1-147.

149. The FACE Act prohibits interfering with religious exercise at places of worship.

150. The FACE Act prohibits using force, threats of force, or physical obstruction to intentionally interfere with religious exercise at places of worship.

151. Defendants use force and intimidation to interfere with religious exercise at Egypt House by refusing to discuss necessary procedural guidelines in connection with Defendants' performance of a M.G.L. c. 58A, § 8A site inspection that would have enabled the inspection to be narrowly tailored to respect the requirements of Orthodox Catholic canon law and prohibit the desecration of Egypt House's chapel.

152. Defendants use force and intimidation to interfere with religious exercise at Egypt House by threatening property seizure, unless Egypt House submitted to religious desecration.

153. The economic intimidation through threatened tax foreclosure constitutes the type of coercive government conduct prohibited by the FACE Act.

154. Defendants' threat to seize Egypt House's property unless Father Andrew consented to religious desecration constitutes economic intimidation designed to force violation of religious law.

155. Defendants' conduct was "intentional" within the meaning of the FACE Act because Defendants knew that undertaking the actions would interfere with the exercise of religion at Egypt House and their actions were taken to achieve that aim.

156. The forced photography was deliberate and purposeful, occurring despite Father Andrew's explicit explanation that such photography would violate Orthodox Catholic religious law, despite knowledge that photography is not empowered by statute and the items photographed are not taxable.

157. Defendants used governmental force to compel violation of religious law through forced photography and inspection of consecrated space.

Fourteenth Cause of Action
Violation of Mass. Const., Part I, Article II (Worship According to Conscience)
(Against All Defendants)

158. Plaintiff incorporates paragraphs 1-157.

159. Part I, Article II, to the Constitution of the Commonwealth of Massachusetts Constitution protects worship according to conscience.

160. For a period in excess of three (3) years, Defendants have refused to recognize the religious organization exemption from taxation codified at M.G.L. c. 59, cl. 10 and 11.

161. The systematic, coordinated, intentional actions and omissions of Defendants have impaired Egypt House from serving its religious purpose to serve the Orthodox Catholic faithful.

Fifteenth Cause of Action
Violation of Mass. Const., Part I, Article III (Public Worship)
(Against All Defendants)

162. Plaintiff incorporates paragraphs 1-161.

163. Part I, Article III to the Constitution of the Commonwealth of Massachusetts provides that all religious denominations are entitled to equal protection of the law.

164. Defendants coerced Egypt House to desecrate its chapel, despite numerous attempts by Egypt House to enable the inspection of the property while protecting sincerely held religious beliefs, well-documented over 1500 years of Orthodox Catholic canon law.

165. Defendants favored all religious denominations within the Town of Marblehead over Egypt House and the Orthodox Catholic faithful; denying this minority religion the equal protection preserved in the Constitution of the Commonwealth of Massachusetts.

Sixteenth Cause of Action
Violation of G.L. c. 12, § 11I (Massachusetts Civil Rights Act)
(Against All Defendants)

166. Plaintiff incorporates paragraphs 1-165.

167. The Massachusetts Civil Rights Act confers upon “[a]ny person whose exercise or enjoyment of rights secured by the constitution or laws of the United States, or of rights secured by the constitution or laws of the commonwealth, has been interfered with, or attempted to be interfered with”¹ the right to pursue a civil action for injunctive relief and/or monetary damages.

168. Defendants interfered with the constitutional rights of Plaintiff through threats, intimidation, and coercion.

169. The actions of Defendants Provencher and Costa to compel disclosure of confessional communications constitutes threats and intimidation designed to chill religious exercise.

Seventeenth Cause of Action
Defamation Per Se
(Against Municipal Defendants and Defendant Tumulty)

170. Plaintiff incorporates paragraphs 1-169.

171. Defendant Tumulty published false statements impugning the religious character and vocation of Father Andrew, implying and or stating criminal activity when there was none.

172. Defendant Tumulty, even after he left his position as Assistant Assessor, while consulting with all Defendants and using a Town of Marblehead email address, advocated for the revocation of the tax exemption due Egypt House.

173. In addition to Defendant Tumulty, elected officials and staff of the Town of Marblehead participated in the defamatory conduct, as evidenced by internal email correspondence, text messages, and communications with news media.

174. These statements constitute defamation per se, as they impugn Father Andrew, the Superior of Egypt House, and the Orthodox Catholic religious community he leads by

¹ G.L. c. 12, § 11I

disparaging his fitness for his religious vocation and, in some cases, the assertion of criminal fraud or other illegality, in each case, where none exists.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests this Court:

1. DECLARE Defendants violated the Constitution and federal laws cited above, specifically finding that:
 - a. The denial of tax exemptions while granting them to other religious organizations constitutes religious discrimination under the Free Exercise and Establishment Clauses of the First Amendment, the Right to Privacy under the Fourth Amendment, the Takings Clause of the Fifth Amendment, the Equal Protection, Procedural Due Process, and Substantive Due Process Clauses under the Fourteenth Amendment;
 - b. The years' long pattern of harassment to prevent exercise of the First Amendment right Free Exercise to be a violation of the FACE Act;
 - c. The forced photography violated clearly established First Amendment rights;
 - d. The pattern of selective enforcement violates RLUIPA;
2. PERMANENTLY ENJOIN Defendants from continuing their pattern of religious discrimination and constitutional violations;
3. ORDER immediate recognition of Egypt House's tax-exempt status retroactive to 2022;
4. AWARD compensatory damages for all constitutional violations, including damages for religious desecration;

5. AWARD consequential damages for all constitutional violations, including damages for religious desecration;
6. AWARD punitive damages against individual Defendants for their deliberate violations of clearly established constitutional law;
7. AWARD nominal damages to the full extent of the statutory limits therefor;
8. AWARD attorneys' fees and costs under 42 U.S.C. § 1988, 18 U.S.C. § 248(c)(1)(B), and 42 U.S.C. § 2000cc-2(a); and
9. GRANT such other relief as this Court deems just and proper.

JURY DEMAND

Plaintiff demands trial by jury on all claims so triable.

DATED: October 14, 2025

/s/Tracey M.A. Stockton
Tracey M.A. Stockton (MA Bar No.: 568495)
Admitted before the United States District Court,
Massachusetts District

Counsel for Plaintiff

VERIFICATION

I, Father Andrew (Bushell), declare under penalty of perjury:

1. I am the Protos of St. Paul's Foundation.
2. I am *ex officio* the Superior of Egypt House which is a part of the Annunciation House complex.
3. I reviewed this Complaint and have full knowledge of its contents.
4. The factual allegations regarding Egypt House, the Town's actions, and the events described are true to the best of my knowledge and belief.
5. The July 23, 2025 forced photography of our consecrated chapel violated Orthodox Catholic religious law and caused profound spiritual distress.
6. Egypt House has used and continues to use its property exclusively for religious purposes.
7. The Town's pattern of enforcement against Egypt House, such as demanding lists of the names of worshippers, creates a chilling effect upon Orthodox faithful and prevents our community from participation in the faith.

EXECUTED this 14th day of October, 2025, at Marblehead, Massachusetts.



Father Andrew (Bushell)
Superior, Egypt House

CERTIFICATE OF SERVICE

I certify a copy of Fourth Amended and Restated Verified Complaint was delivered via electronic mail on this 14th day of October, 2025, to all parties of record subscribed to the CM/ECF portal.

/s/Tracey M.A. Stockton
Tracey M.A. Stockton