



April 15, 2020

SENT VIA EMAIL: Alejandro.Sanchez@gov.wa.gov

Governor Jay Inslee
c/o Alejandro Sanchez
Office of Governor Inslee
416 14th Ave SW
Olympia, WA 98504

Re: Attempt to compromise - OURChurch of University Place drive-in worship

Dear Mr. Sanchez:

My client, OURChurch of University Place, was very disappointed to receive Governor Inslee's decision to stand by the ban of drive-in worship services.¹ My client would like to make abundantly clear what is **not** being asked for. My client is not requesting a general exception on the ban on public gatherings issued by the Governor on March 23;² my client respects the Governor's decision during this epidemic. My client understands the gravity of the situation and will continue to abide by the executive orders of the Governor.

Subsequently, please let me make clear what we **are** asking for. My client seeks equal treatment with the other drive-in businesses in Washington State. On April 11, our letter specifically requested clarification from the Governor's office that a church may, subject to social distancing guidelines, host drive-in services. My client asks that its congregants be allowed to park their cars in a parking lot just as customers are allowed to park their cars in parking lots at grocery stores, drive-thru and drive-in restaurants, drugs stores, liquor stores, and marijuana dispensaries across the state. Unlike customers patronizing those stores, however, my client is not asking that congregants actually enter a building or even leave their vehicles.

My client's position, consistent with a recent federal court ruling in Kentucky, is that the restrictions imposed by the Governor's office "violate the Free Exercise Clause beyond all question because they are not even close to being narrowly tailored to advance that interest."³ As in *Lukumi Babalu*, the government's "proffered objectives are not pursued with respect to

¹ Alejandro Sanchez, Email (Apr. 11, 2020) ("At this time, there has been no revision to the Governor's decision to temporarily pause drive-in religious services...it is unlikely that any new decision will occur within the coming days.").

² Executive Order 20-25 (Mar. 23, 2020), available at <https://www.governor.wa.gov/sites/default/files/proclamations/20-25%20Coronavirus%20Stay%20Safe-Stay%20Healthy%20%28tmp%29%20%28002%29.pdf>

³ *On Fire Christian Center, Inc. v. Greg Fischer, et. al.*, No. 3:20-cv-264-JRW (W.D. Ky. Apr. 11, 2020) (internal quotations and citations omitted), available at https://www.scribd.com/document/456001015/Temporary-Restraining-Order#from_embed.

analogous non-religious conduct, and those interests could be achieved by narrower ordinances that burdened religion to a far lesser degree.”⁴

In addition to Kentucky, another situation similar to my client’s situation is being litigated in Mississippi. The City of Greenville fined congregants \$500 per person for sitting in their cars in the church parking lot with their windows up while permitting citizens to attend nearby drive-in restaurants, even with their windows open. The Department of Justice issued a Statement of Interest⁵ on April 14, 2020, in the Mississippi matter explaining, “where a state has not acted evenhandedly, it must have a compelling reason to impose restrictions on places of worship and must ensure that those restrictions are narrowly tailored to advance its compelling interest.”⁶

My client requested an explanation for the assertion that people remaining inside their parked cars posed a serious health risk and, as such, constituted a violation of the ban on public gatherings. None was given. Your office promised further guidance. None was given. Our position is that there is no known medical evidence COVID-19 can be transmitted between vehicles. Again, we asked your office to provide a scientific source to the contrary.

It appears we have reached an impasse. My client remains hopeful that the Governor will recognize the humble request being made here and reach a compromise, much like Nevada. We outlined the Nevada compromise in the previous letter. We are not questioning the authority of the Governor to issue executive orders during a declared emergency. The question we posed, and which has not yet been answered, is whether on its face the Governor’s executive order specifically prohibits drive-in religious services. Your office instead sent us a two-sentence statement that the Governor had made a “decision” to “temporarily pause” drive-in services. To date, our client has received no official guidelines from your office and no executive order from the Governor specifically banning drive-in religious services.

My client will be holding a drive-in service this coming Sunday, April 19. It is our opinion that this service will comply with the executive orders public gathering ban and social distancing guidelines. Congregants will be told they cannot leave their cars and that the facilities, including restrooms, will be closed. No items will be distributed. Cars will be parked with at least 6 feet between the windows and the windows will not be more than 25 percent open.

We welcome any other guidelines from your office as my client moves forward with plans for its drive-in services.

Sincerely,

/s Jorge Ramos,
Staff Attorney
Pacific Justice Institute
PO Box 48011
Seattle, WA 98148

⁴ *Church of the Lukumi Balalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 531 (1990).

⁵ U.S. Dept. of Justice, https://www.justice.gov/opa/press-release/file/1268651/download?utm_medium=email&utm_source=govdelivery (April 14, 2020)

⁶ U.S. Dept. of Justice, <https://www.justice.gov/opa/pr/attorney-general-william-p-barr-issues-statement-religious-practice-and-social-distancing-0> April 14, 2020