

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

THE MENDHAM METHODIST)	
CHURCH; and THE ZION)	
LUTHERAN CHURCH LONG)	
VALLEY,)	
)	
Plaintiffs,)	Civil Action No.
)	Case No. 2:23-cv-02347
v.)	
)	
MORRIS COUNTY, NEW JERSEY et)	
al.,)	
)	
Defendants;)	
)	
ATTORNEY GENERAL of NEW)	
JERSEY,)	
Intervenor-Defendant.)	

CONSENT JUDGMENT AND PERMANENT INJUNCTION

In this action, Plaintiffs, the Mendham Methodist Church and Zion Lutheran Church Long Valley, sued Defendants, Morris County, New Jersey; the Morris County Board of County Commissioners; the Morris County Historic Preservation Trust Fund Review Board; and John Krickus, in his official capacity as Commissioner Director for the Morris County Board of County Commissioners. The Attorney General of New Jersey subsequently intervened as an Intervenor-Defendant. Plaintiffs, Defendants, and Intervenor-Defendant (collectively, “the Parties”) agree to this Order as final and binding as to the issues raised in Plaintiffs’ Amended Complaint in this action.

NOW, THEREFORE, it is hereby AGREED BY THE PARTIES and ORDERED BY THE COURT, that:

I. BACKGROUND

1. Defendants administer Morris County’s Historic Preservation Trust Fund (the “Fund”), which “distributes money to eligible organization for the repair, restoration, and preservation of historic local buildings and resources.” ECF No. 72 (Preliminary Injunction Opinion) at 2; *see* ECF No. 18-2 ¶¶ 1–4.
2. For over a decade, “churches and religious organizations with historic significance were eligible for and received funding” through the Fund on equal terms with other historic structures. ECF No. 72 at 3; ECF No. 18-2 ¶¶ 34–37.
3. After state litigation challenging such grants, the Fund subsequently amended its Rules and Regulations. Under § 5.6.4 of the Fund’s 2022 Rules and Regulations, a “property that [was] currently used for religious purposes or functions [was] ineligible for Historic Preservation grant funding.” 2022 Historic Preservation Trust Fund, Rules and Regulations § 5.6.4, <https://perma.cc/XE5D-4GRP>.
4. Applying the 2022 Fund Rules, Defendants denied applications for funding from Plaintiffs because their historic properties are actively used for religious purposes. ECF No. 18-2 ¶ 45. “But for the [2022 Fund Rules’] provision excluding properties that are currently used for religious purposes or functions,”

Plaintiffs and Defendants agreed that “[Plaintiffs] would be eligible to apply for a grant from the Fund.” ECF No. 18-2 ¶¶ 43–44.

5. In 2023, Plaintiffs brought this lawsuit, alleging that the religious-exclusion policy, as implemented in § 5.6.4 of the 2022 Fund Rules, violated the U.S. Constitution, and in particular the First Amendment’s Free Exercise Clause. *See* ECF No. 1; ECF No. 11.

6. On November 27, 2024, this Court issued a preliminary injunction. ECF No. 72; ECF No. 73. In the accompanying opinion, the Court concluded that the 2022 Fund Rules’ religious-exclusion policy contained in § 5.6.4 “likely violates the Free Exercise Clause” under the U.S. Supreme Court’s decisions in *Espinoza v. Montana Department of Revenue*, 591 U.S. 464 (2020), and *Carson v. Makin*, 596 U.S. 767 (2022). ECF No. 72 at 4–5, 12–14. The Court preliminarily enjoined Defendants from enforcing the exclusion on funding for properties used for religious purposes or functions contained in § 5.6.4 of the 2022 Fund Rules “to exclude Plaintiffs from eligibility for funding, or applying for funding, from the Morris County Historic Preservation Trust Fund.” ECF No. 73 at 2.

7. On January 22, 2025, the County adopted Resolution 2025-180 “in response to the Judge’s Opinion in Mendham Methodist Church et al. for a preliminary injunction enjoining the County from enforcing Section 5.6.4. of the [Historic Preservation Fund] Rules.” Res. 2025-140, 2025 Morris Cnty. Bd. of

Chosen Freeholders (N.J. 2025). The Resolution replaced the religious-exclusion policy in § 5.6.4 with a new policy, enacted as § 5.8.8 (the “Post-Injunction Policy”), which provides that religious institutions may receive funding for certain eligible activities. *Id.*; 2025 Historic Preservation Trust Fund, Rules and Regulations § 5.8.8 (hereinafter “2025 Fund Rules”).

II. STIPULATIONS

8. Based on this Court’s November 27, 2024 opinion, and the Parties’ exchange of information, Defendants and Intervenor-Defendant have determined not to contest further in this litigation whether Section 5.6.4 of the 2022 Fund Rules violated the U.S. Constitution’s Free Exercise Clause.

9. Accordingly, Defendants and Intervenor-Defendant stipulate and agree to the final judgment and entry of relief set forth below.

10. The Parties have reached an agreement on the amount of attorney’s fees and costs.

11. Plaintiffs stipulate and agree that the Consent Judgment as set forth below, once approved and effective, together with the separate agreement referred to in Paragraph 10, completely and conclusively resolves the claims Plaintiffs have or could have raised in this action or any subsequent action to enforce this Consent Judgment.

12. Plaintiffs and Intervenor-Defendant stipulate and agree that the Post-Injunction Policy is not “substantively identical” to Section 5.6.4 of the 2022 Fund Rules, as that term is used herein.

13. Plaintiffs and Intervenor Defendant further stipulate and agree that they do not presently intend to challenge the Post-Injunction Policy in this or any other proceeding.

III. DECLARATORY JUDGMENT AND PERMANENT INJUNCTION

14. Based on its independent analysis and for the reasons set forth in its November 27, 2024 opinion, the Court holds and declares that Section 5.6.4 of the 2022 Fund Rules “violate[d] the Free Exercise Clause” of the U.S. Constitution “[u]nder binding Supreme Court precedent” including the U.S. Supreme Court’s decisions in *Carson* and *Espinoza*. ECF No. 72 at 13–14 (quoting *Carson*, 596 U.S. at 785 and *Espinoza*, 591 U.S. at 486).

15. The Court permanently enjoins Defendants from enforcing a) Section 5.6.4 of the 2022 Fund Rules or b) any Morris County rule or policy, whether currently existing or promulgated in the future, that is, or would be, substantively identical to Section 5.6.4 of the 2022 Fund Rules insofar as it excludes properties from eligibility for, or from applying to receive, historic preservation funding based solely on the religious use, character, or functions of the property, in any funding cycle in which a Plaintiff is eligible for funds.

16. Intervenor-Defendant agrees not to take any enforcement action against Defendant, based on the New Jersey Constitution's Religious Aid Clause, for Defendant's compliance with this Order.

SO ORDERED this 15th day of January 2026.



HON. EVELYN PADIN
UNITED STATES DISTRICT JUDGE

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