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Yeshiva Files Suit Against Ocean Township and Zoning Board of Adjustment

On January 8, 2016, Storzer & Greene client Yeshiva Gedola Na'os Yaakov filed suit against Ocean Township, N.J. and its Zoning Board of Adjustment, challenging the Township's zoning regulations and Board's denial of the Yeshiva's variance application to use an existing school building as a small Talmudic academy--a 96-student boarding school for advanced Jewish studies--at 1515 Logan Road in Ocean Township. The Complaint was filed in federal district court and alleges violations of the First and Fourteenth Amendments to the U.S. Constitution, the federal Religious Land Use and Institutionalized Persons Act ("RLUIPA") and the Fair Housing Act. The Yeshiva is also represented by New Jersey attorney Donna M. Jennings of Wilentz, Goldman & Spitzer, P.A.

The Complaint explains the Yeshiva's need for a religious school, as well as the Township's zoning laws that completely prohibit religious education throughout the Township for students over 18 years of age, while permitting other adult education institutions. It also describes a long litany of examples of the substantial hostility faced by the Yeshiva during the variance application proceedings. Just a few include being described as "religious zealots," "[s]cumbags," "dirty" and "Long coat gangsters," and accused of being "a different breed; the women are sub species and their ways are cultish," The Complaint states that "many Ocean Township residents hold animus toward the Orthodox Jewish community in nearby Lakewood, New Jersey," that the "Ocean Township community . . . engaged in a concerted effort to 'pack' the hearings [and] delay proceedings," and this "hostility by many residents of Ocean Township includes unsubstantiated fears of, and prejudice against, Orthodox Jewish men." The variance application dragged on for approximately four times the statutory limit of 120 days, including proceedings shut down because of capacity being exceeded by crowds "packing" the venue.

"This is bigotry masked as a zoning hearing, pure and simple," said Roman P. Storzer, attorney for the Yeshiva. "The situation that the Yeshiva has faced here is exactly why Congress decided that RLUIPA's protections are necessary."

"Importantly, a claim under RLUIPA negates the presumption of validity afforded the Zoning Board's decision under New Jersey common law. The Township will be required to demonstrate that its zoning regulation is the least restrictive means available in furtherance of a compelling governmental interest. Moreover, a plaintiff may seek not only injunctive relief, but damages and attorney fees for a wrongful denial. These financial remedies are not available under state law," added Donna M. Jennings, co-counsel for the Yeshiva.

Religious land uses are protected from undue burdens, discrimination and arbitrary treatment under RLUIPA, which was passed by Congress fifteen years ago to prevent discrimination against religious institutions in land use regulation. The attorneys of Storzer and Greene, P.L.L.C. have represented scores of churches, temples, mosques and synagogues in land use conflicts from Hawaii to Florida. Storzer has been described by the Religion Newswriters Association as "one of the country's most experienced litigators" in religious land use law, and has successfully represented Christian, Jewish, Muslim, Hindu, Buddhist, Native American, Sikh and other religious organizations in RLUIPA and First Amendment cases throughout the nation.

Ms. Jennings is a shareholder on the land use team at Wilentz, Goldman & Spitzer, P.A., a full-service law firm with four offices throughout New Jersey, New York and Pennsylvania. She has represented a number of religious institutions before local municipal planning and zoning boards, and successfully litigated appeals on their behalf.

The Complaint is available at <http://tinyurl.com/z6t9qqj>