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September 18, 2015

BY HAND DELIVERY

Mr. Leif A. Dormsjo
Director
District Department of Transportation (DDOT)
55 M Street, S.E.
Washington, D.C. 20003

Re: Bicycle Lane/Parking Issues
(Alongside United House of Prayer, 6th and M Streets, N.W.)

Dear Mr. Dormsjo:

DLA Piper LLP (US) represents the United House of Prayer for All People of the Church on the Rock of the Apostolic Faith (“United House of Prayer” or the “Church”) in connection with its claims against the District Department of Transportation (“DDOT”) arising out of the possible installation of bicycle lanes/tracks on 6th Street NW. This installation would eliminate an entire lane of traffic, 24 hours a day, seven days a week, alongside the United House of Prayer’s headquarter Church located at 601 M Street and known as “God’s White House.” It would also prohibit any possibility of diagonal parking, as presently allowed by DDOT, at this location.

In addition, the installation of bicycle lanes/tracks along 6th Street fails to take into account the practical reality that 6th Street bears the traffic from events at the District of Columbia Convention Center, located one block away from the United House of Prayer headquarter church. In some cases, Metrobuses and private automobile traffic are diverted to 6th Street, due to street closures around the Convention Center, particularly when events at the Convention Center involve national and world leaders where the security of such persons is paramount.

This letter is a follow up to a meeting between the United House of Prayer and Darren Buck of DDOT on June 25, 2015, as well as an earlier letter sent by me to your DDOT predecessor, Matthew Brown, on July 11, 2014. A copy of the July 11, 2014 letter is attached hereto as Exhibit 1. During the June 25, 2015 meeting, Mr. Buck sought to allay concerns previously raised by the United House of Prayer in its July 11, 2014 letter regarding the D.C. Multimodal Long-Range Transportation Plan and its projected installation of bicycle lanes/tracks that would have the end result of restricting parking on 6th and “M” Streets. These restrictions



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would place an extreme burden on the free exercise of religion by United House of Prayer congregants.¹ Despite Mr. Buck's presentation during the June 25 meeting of a "universe of options" for the planned bicycle lanes, on September 9, 2015, Mr. Buck informed United House of Prayer that DDOT had dropped two "design alternatives" for the lanes, and had narrowed its "design options" to only four possibilities. Regrettably, all of these remaining four options involve either (1) the 1200 Block of 6th Street, NW (and thus would adversely limit the present parking accessibility to the United House of Prayer's national headquarters Church at 601 M Street, NW), or (2) untenable traffic impacts in the periphery of the strategically important DC Convention Center, should any of these options be pursued. These design options impacting Sixth Street would impermissibly infringe, *inter alia*, upon the Church's and its parishioners' constitutionally protected rights of religious freedom and equal protection of the laws, as well as rights guaranteed under the Religious Freedom Restoration Act ("RFRA"), 42 U.S.C. § 2000bb, and the Religious Land Use and Institutionalized Persons Act ("RLUIPA"), 42 U.S.C. § 2000cc. The United House of Prayer therefore urges DDOT to formulate new design options that do not impact the area immediately surrounding the United House of Prayer and the DC Convention Center, in the vicinity of 6th Street and "M" Street NW, either directly or indirectly. In the alternative, DDOT should adopt the less restrictive alternative currently being considered— the "9th Street Eastside" option.

Clearly, imposing DDOT's present proposals on the 6th Street corridor, including the location of the United House of Prayer's headquarter church and the area around the Convention Center on 7th Street NW, is unsupportable, unrealistic and particularly problematic for traffic and parking, and thus is not a good location for bicycle lanes/tracks. As you know, the 6th Street corridor around and near the United House of Prayer is used for overflow when the Convention Center has major events, hosting tens of thousands of attendees, daily. Because of national security issues attendant to the Convention Center when it hosts prominent events, such as the American Israeli Political Action Committee (AIPAC) Convention with the Israeli Prime Minister and the U.S. President, 7th Street is closed to traffic, and all traffic and METRO buses are routinely re-routed to 6th Street, NW. This same re-routing of traffic to 6th Street, NW also occurs when other U.S. presidential events take place at the DC Convention Center, along with Presidential inaugural activities.

As explained below, the United House of Prayer provides a number of much-needed services to District residents, all without any financial assistance from the District of Columbia. The United House of Prayer has always worked collaboratively with the District in the past and is deeply troubled that a proper accommodation has not been reached to date, and indeed, that

¹ In addition, four area Churches share this 6th Street NW corridor, within a four block stretch: Springfield Baptist Church, First Rising Mount Zion Baptist Church, The United House of Prayer (National Headquarters), and Galbraith Memorial AME. Further, similar parking restrictions have already forced some churches to relocate to the suburbs.



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other proper accommodations have been ruled out. Mindful of the contributions that the United House of Prayer makes to serving District of Columbia residents, the Church is hopeful that an amicable resolution that serves both DDOT's and the Church's interests can be reached. However, if no agreement can be reached, United House of Prayer will have no choice but to proceed expeditiously with legal action to protect its rights.

FACTUAL BACKGROUND

1. United House of Prayer in the District of Columbia

As explained in our July 11, 2014 letter, the United House of Prayer's presence in the city of Washington, DC started on Sunday, May 29, 1926 in a "large tent on the corner of South Capitol and K Streets." In 1929, the William Stickney Mansion on the corner of 6th & M Street, NW was purchased and became home for the 601 M Street congregants. In the spring of 1964, the building at 6th & M Street, NW was demolished and on Sunday, November 28, 1965, the current edifice was completed.

The building at 601 M Street NW stands as the National Headquarters for the United House of Prayer, which is comprised of 137 congregations in 28 states throughout the United States. It is host to many national gatherings throughout the year, as well as a variety of other community gatherings and events for the National Black Caucus. There are upwards of 800 congregants who worship at this location, many of whom live in the neighborhood surrounding it.

2. Residential Ministries in the District of Columbia

For decades, the United House of Prayer has provided housing for more than 1,000 residents in the immediate area of the 1200 block of 6th Street, N.W. With several apartment buildings, brownstones, multiple duplexes, and at least thirty single family homes – all of which are within the neighborhood of its national headquarters at 601 M Street NW -- the United House of Prayer owns well over 100 residential properties in this specific area of the District of Columbia. All of the properties owned by the Church are exempt from rent control. United House of Prayer keeps rents low to accommodate low and moderate income residents and as a service to the community. Such residential housing provided by United House of Prayer includes:

- Low-rent housing accommodations provided for half of a century to the residents of the Bailey Haven Lofts at 623 "M" Street N.W.;
- The "McCullough Caananland" apartments, purchased by the Church in 1975. These garden style apartments comprise a total of 84 residential



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units, which provide affordable housing for senior citizens and the disabled;

- The “Paradise Garden” apartments, constructed by the United House of Prayer in 1982. Although this prime location is directly across the street from the DC Convention Center, Metro access and downtown life, the Church charges an average rent of \$650/month to tenants;
- The “McCullough Terrace” apartment complex, which also sits on the same block as the DC Convention Center. Comprised of 108 residential units, the average rental rate for these properties is \$700/month;

3. Worship Services

United House of Prayer’s headquarter Church located at 601 M Street, holds worship services three times a day, Mondays through Saturdays, and all day on Sunday – from 6:00 a.m. until 9:00 p.m. United House of Prayer made a deliberate decision to locate its headquarter Church in the District of Columbia, so as to be easily accessible to its 800 plus parishioners. Although the majority of United House of Prayer’s members are D.C. residents, not all live within walking distance of the Church and must drive to worship services and other related Church activities. The availability of street parking adjacent to the Church is critical to their ability to participate in these services, which are central to United House of Prayer’s faith and mission. The regrettable result of DDOT’s proposed protected bike lanes along 6th Street, along with losing an entire lane of traffic, or two lanes of traffic, would be the creation of a traffic environment along 6th Street where there is virtually nowhere near the Church for United House of Prayer parishioners to park and access the church for prayer and worship.

4. Proposed Bicycle Lane/Track and Proposed Alternative Route

Three of DDOT’s currently proposed protected bike lane options would eliminate one or two lanes of traffic along 6th Street, 24 hours a day, seven days a week – and replace these critical lanes of traffic with a protected bicycle right of way. If any of these design options are implemented, it would severely restrict the already limited parking for United House of Prayer members adjacent to the church, leaving them with nowhere to park to attend services and other Church functions. As such, the planned bicycle lane will create a permanent and untenable burden on members’ ability to attend services at the Church. Any plan by DDOT to eliminate *all* 6th and “M” Street parking by installing a bicycle lane/track along those thoroughfares would represent a substantial and egregious encroachment on United House of Prayer’s rights.

Moreover, that encroachment is entirely unnecessary to achieve DDOT’s goal of increasing bicycle rights of way. As United House of Prayer representatives have previously



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advised DC Council Chairman Phil Mendelson (during a July 3, 2014 meeting), the chiefs of staff for DC Council members David Catania and Vincent Orange on July 8, 2014, and most recently, Mr. Buck, DDOT has available to it options that satisfy its desire to create bicycle lanes/tracks without impermissibly infringing upon religious rights. As you know, bicycles have freely and safely traversed the District of Columbia throughout the 90-year history of the United House of Prayer, without any protected bicycle lanes and without infringing in the least on the United House of Prayer's religious rights. More importantly, as discussed at various points with DDOT, there is another alternative that would simply entail altering the proposed bicycle lane's route by one block, such that the bike tracks would follow 6th Street to "N" Street for the block or two needed to avoid impacting adversely on any parking adjacent to God's White House on 6th and "M" Streets. The bike tracks could then return to 6th Street at an appropriate point. In his July 1, 2014 letter to you, Chairman Mendelson urged DDOT not to "proceed with the cycle tracks on either 6th or "M" Streets until it has worked with all four churches in the immediate area and resolved their concerns." While DDOT has met with the United House of Prayer, it has obviously not heard its concerns given the fact that all of the four proposals advanced by DDOT would negatively impact on the immediate vicinity of 6th Street where the United House of Prayer and the DC Convention Center are inextricably connected. We request that DDOT pursue other alternatives to those presently proposed, or, in the alternative, pursue the "9th Street Eastside" option as it is the least restrictive means in furtherance of the professed goal of the District to increase the use of bicycles without infringing on the United House of Prayer's constitutional rights.

LEGAL BACKGROUND

The First Amendment to the U.S. Constitution prohibits government action that "substantially burdens" the free exercise of religion. A "compelling interest" must exist before a governmental body can impose a substantial burden on religious activities. *See Sherbert v. Verner*, 374 U.S. 398 (1963); *Western Presbyterian Church v. The Board of Zoning Adjustment of the District of Columbia*, 862 F. Supp. 538 (D.D.C. 1994). The Religious Freedom Restoration Act, 42 U.S.C. § 2000bb ("RFRA"), also precludes governments from burdening religious expression except to: (1) further a compelling government interest; and (2) if it is the least restrictive means of furthering that compelling government interest. *Id.* As the U.S. Supreme Court recently observed: "RFRA was designed to provide a very broad protection for religious liberty." *Burwell v. Hobby Lobby*, 573 U.S. ___, 134 S.Ct. 2751 (2014). Similarly, the Religious Land Use and Institutionalized Persons Act ("RLUIPA"), 42 U.S.C. § 2000cc, prohibits land use regulations that impose a substantial burden on religious exercise unless the regulation furthers a compelling government interest and is the least restrictive means of doing so.

DDOT's parking restrictions violate, *inter alia*, United House of Prayer's rights of religious expression under the First Amendment. The bicycle lane/track will place a very



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substantial burden on members' ability to attend worship services, which are, of course, central to United House of Prayer's faith and mission. Nor is there any compelling government interest in the currently-proposed route for the bicycle lane/track, given that the United House of Prayer, would be irreparably and adversely impacted by any of DDOT's present proposals. Further, the three 6th Street design options are far from the least restrictive alternative; as Mr. Buck has already acknowledged, DDOT has an alternative, viable design option – the 9th Street Eastside option. This option would not present the significant problems that all of the 6th Street options do.

For the same reasons, DDOT's plan satisfies neither prong of the two-part test under RFRA and RLUIPA: It is not supported by a compelling government interest; nor is it the least restrictive means of achieving DDOT's objectives. Even if increasing bicycle traffic could be viewed as a compelling interest – and it cannot – DDOT's proposal unquestionably fails the second prong of the RFRA test because it is not the least restrictive means of furthering DDOT's interest.

In addition, the potential restrictions on parking spaces and loss of an entire traffic lane, or two lanes, alongside the United House of Prayer, 601 M Street, deprives United House of Prayer of the equal protection of the laws. These actions by DDOT appear to be part of a recent pattern and practice of targeting historically African-American churches with restrictive parking regulations and extremely stringent enforcement to drive them out of the District. This is all happening at a time when property values in the District have skyrocketed, and demand for apartments is at a fever pitch. In this context, the D.C. government seems to view tax exempt, church-owned properties as a drag on revenues. The situation has gotten so bad that several churches have already been forced to move out of the District. The churches then must sell their tax exempt D.C. property to non-tax exempt developers, thereby increasing the District's tax base. This discriminatory treatment of United House of Prayer and other similarly situated churches unlawfully denies them equal protection under the law. Such practices are also unlawful under RFRA and RLUIPA.

The United House of Prayer is hopeful that DDOT will work with it to craft an amicable resolution to the above issues. If no agreement is reached, however, the Church will act promptly to vindicate its rights and preserve its members' ability to freely exercise their religion.

We would be happy to meet with you to discuss a possible resolution.



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Sincerely,

A handwritten signature in cursive script that reads 'Mary E. Gately'.

Mary E. Gately

cc: The Honorable Mayor Muriel Bowser (by hand)
Mr. Rashad Young, City Administrator (by hand)
The Honorable Phil Mendelson, Chairman, City Council (by hand)
The Honorable Mary M. Cheh, Chair, Committee on Transportation & the Environment,
City Council (by hand)
The Honorable Charles Allen, City Council (by hand)
Mr. Karl Racine, Attorney General for the District of Columbia (by hand)
The Honorable Jason Chaffetz (by hand)
The Honorable Elijah Cummings (by hand)
The Honorable Eleanor Holmes Norton (by hand)
The Honorable Mark Meadows (by hand)
The Honorable Gerald E. Connolly (by hand)
The Honorable Ron Johnson (by hand)
The Honorable Thomas R. Carper (by hand)
The Honorable Mark Begich (by hand)
The Honorable Rand Paul (by hand)