

3. Defendant City and County of Denver ("**Denver**") is a municipal corporation located in the State of Colorado.

4. Defendant Park Hill United Methodist Church ("**PHUMC**") is a Colorado nonprofit corporation located at 5209 Montview Boulevard, Denver, Colorado.

5. Defendant Nathan Adams ("**Adams**") is an individual who, upon information and belief, works and resides in Denver, Colorado.

JURISDICTION AND VENUE

6. Jurisdiction is proper before the court.

7. Venue is proper in this matter pursuant to C.R.C.P. 98(c) because, among other things, Defendants reside within the City and County of Denver, State of Colorado

GENERAL ALLEGATIONS

TEMPORARY MANAGED CAMPSITES

8. **CVC**, in cooperation with other community organizations, helps to establish Temporary Managed Campsites ("**TMC**").

9. **CVC** defines a **TMC** as a campsite secured area comprised of multiple temporary structures, or multiple spaces for parked motor vehicles, providing temporary sleeping accommodations for adults 18 years and older.

10. A **TMC** allegedly has a formal process for selecting residents.

11. According to **CVC**, a **TMC's** residents are to have convenient access to bathroom facilities, food/meals, and in some cases, personal storage opportunities.

12. The **TMC** operator is supposed to provide onsite staff to supervise and direct the campsite during its operating hours.

13. A **TMC** is required to comply with several conditions set forth by **Denver**.

14. A **TMC** must have an operation plan.

15. The operation plan must address the security for the campsite guest and adjacent prorates.
16. The operation plan must address a property maintenance plan.
17. The operation plan must include the provision of housekeeping facilities and services for campsite guests.
18. The operation plan must include a single point of contact in case of emergency.
19. The operation plan must include a description of measures to mitigate potential impacts to surrounding properties.
20. The operation plan must include commitments in place to occupy the subject property.
21. The operation plan must include a provision for removal after the zoning permit's expiration.
22. The **TMC** is void upon the expiration or recession of all State of Colorado and **Denver** public health orders issued due to the COVID-19 pandemic.
23. When a **TMC** is created, no additional transportation services are provided to the **TMC**.
24. When a **TMC** is created, no additional sanitation services are provided to the **TMC**.
25. When a **TMC** is created, no additional public safety resources are provided to the **TMC**.

CVC'S PERMIT WITH DENVER FOR A TMC

26. **CVC** plans to file for a permit with **Denver** to operate a **TMC** in the Park Hill neighborhood of **Denver**. Specifically, **CVC** intends to create a **TMC** in the parking lot of **PHUMC**.
27. **Adams** is the Lead Pastor of **PHUMC**.
28. In his capacity as lead pastor, **Adams** has allegedly invited **CVC** to use the parking lot of **PHUMC** for the **TMC**.

CURRENT TMCS IN CAPITOL HILL NEIGHBORHOOD

29. The Capitol Hill neighborhood has the most significant number of unsanctioned camping in the city of Denver.

30. Before the **TMCs** in the Capitol Hill Neighborhood, Capitol Hill experienced unsanctioned camps, including trash, health concerns, and camps set up in the rights-of-way.

31. **CVC** has received significant funding from **Denver** and other private donors.

32. **Denver** approved \$900,000 to **CVC** in February of 2021.

33. In October of 2020, **Denver** approved \$650,000 to be paid to **CVC**.

34. The current **TMC** in the Capitol Hill neighborhood is located several miles away from the proposed site at the **PHUMC**.

35. The current **TMC** in Capitol Hill is in an area with public transportation, client services, food security, and other readily available resources.

36. The **TMCs** operated by **CVC** in Capitol Hill are "low barrier" outdoor shelters.

37. A "low barrier" outdoor shelter does not require screening for any type of drug use, sex offender, or alcohol abuse.

38. **CVC** will not drug test clients living in a **TMC**.

39. **CVC** will not inspect bags or persons to prevent drugs from being brought into the **TMC**.

40. **CVC** will not deny entry into a **TMC** if someone appears to be intoxicated.

41. **CVC** will not enforce a curfew at a **TMC**.

PARK HILL'S SURROUNDING AREA AND LACK OF AVAILABLE RESOURCES

42. **PHUMC** shares property with a preschool, daycare facility, and camp.

43. **PHUMC** is embedded in a residential neighborhood.

44. Within the five-block radius of **PHUMC**, no unsanctioned tent communities exist.

45. Hundreds of Park Hill families and their children of all ages use the public spaces, roads and sidewalks adjacent and near the proposed TMC at **PHUMC**.

46. In creating the TMC at **PHUMC**, CVC will displace clients from a TMC in the Capitol Hill neighborhood of Denver.

47. The proposed location at **PHUMC** does not have the same readily available resources as does the location in Capitol Hill.

48. The proposed location at **PHUMC** does not have easy access to resources for food, public transportation, health, or job resources.

49. Currently, **PHUMC** has limited parking for church services, temple services, and other church-related activities.

50. During a service, or other church-related activity, **PHUMC's** congregants, once the parking lot is full, park on the street in the immediate neighborhood around the church.

51. When **PHUMC's** congregants park in the immediate neighborhood during service, it is impossible for the residents of the neighborhood or their guests to find parking.

52. By placing a TMC at **PHUMC**, CVC will remove virtually all parking spots currently available at **PHUMC**.

53. Removing parking spots at **PHUMC** will increase the congestion and parking issues that **PHUMC's** congregants cause as it relates to street parking in the neighborhood during church services, temple services, and other church related activities.

TMC CAUSES HARM TO MINORS AND SCHOOL-AGED CHILDREN

54. The proposed TMC will not have adequate security measures to protect the children and staff of the preschool, which is onsite at **PHUMC**.

55. Young children are onsite at **PHUMC** during the hours of 7 am to 6 pm each weekday.

56. There are more than two dozen minors who live in the immediate vicinity of **PHUMC**.

57. There are at least seven schools within walking distance of **PHUMC**.

58. The proposed TMC at **PHUMC** is within four blocks of Park Hill Elementary school.

59. Park Hill Elementary school services nearly 700 students in grades kindergarten through grade five, as well as preschool students.

60. The proposed **TMC** at **PHUMC** is four blocks from Montview Presbyterian preschool.

61. The proposed **TMC** at **PHUMC** is three blocks from Blessed Sacrament Catholic School which operates a pre-school, elementary school, and middle school.

62. **CVC** does not provide adequate training for staff at a **TMC** as it relates working in close proximity to children or minors.

63. **CVC's** staff at a **TMC** have no professional training for mental health issues.

64. **CVC's** staff at a **TMC** have no professional training as it relates to drug and/or alcohol abuse.

65. **CVC's** staff at a **TMC** have no professional training as it relates to de-escalating conflicts – verbal or physical.

66. **CVC's** staff at a **TMC** undergo a brief, non-inclusive training of approximately two hours.

CVC'S PROPOSAL FOR A TMC AT PHUMC

67. **CVC** proposes a **TMC** with 45 tents and 50 people, excluding the additional tents for staff and shade.

68. **CVC** is submitting a permit with **Denver** for the **TMC** explicitly tied to a critical public health and safety need.

69. The permit to be filed by **CVC** for the **TMC** is based on a temporary zoning ordinance passed in 2020 as an emergency order tied to the duration of COVID-19 emergency public health orders issued by the State of Colorado and **Denver**.

70. Any permit submitted by **CVC** does not include the needed security and protection of minors living in the Park Hill neighborhood.

71. The **TMC** at **PHUMC** does not meet the requirements set out by **Denver**.

72. The **TMC** at **PHUMC** poses a great risk and danger to minor and school-aged children.

73. The **TMC** at **PHUMC** does not have an operation plan in place to protect school-aged children.

74. The **TMC** at **PHUMC** does not have an operation plan to address the nuisance, noise, and impact it will cause to the Park Hill neighborhood.

75. The proposed **TMC** at **PHUMC** would be the only **TMC** in a predominantly residential neighborhood.

76. Furthermore, there are already plans for a **TMC** to be located at Regis University, which is a mere 6 miles away from Park Hill and will provide adequate facilities for those in need. The **TMC** at Regis University has the physical capacity serve for more unhoused individuals than the existing **TMC** in Capitol Hill and the proposed **TMC** at **PHUMC**.
https://www.regis.edu/news/2021/news-releases/05/safe-outdoor-space?fbclid=IwAR02Vud7f16nHzKkVph8FAc4oyYYuO-u7bYKIHsMb0TesaTMS_bOGPwFfGo

77. Leaders of **CVC** repeatedly state the ideal location of a **TMC** is a location close to or across the street from unsanctioned tent communities.

78. Leaders of **CVC** repeatedly state the ideal location of a **TMC** is somewhere close to public transportation and public services for unhoused individuals.

79. Leaders of **CVC** have explicitly stated that the **PHUMC** is not an ideal location for a **TMC** and that **CVC** would prefer to locate its **TMC** somewhere else to better serve unhoused individuals.

80. A location near an unsanctioned tent community would offer those unhoused a much safer alternative.

81. A location close or across the street from an unsanctioned tent community would allow the **TMC** to be close to city and other public services.

NO PUBLIC REVIEW

82. **Denver** typically allows for a public review in zoning ordinance processes.

83. With the **TMC** ordinance, **Denver** does not allow for public review.

84. The decision-makers allowing a **TMC** in the Park Hill neighborhood do not live in the neighborhood.

85. The decision-makers allowing a **TMC** in the Park Hill neighborhood will not be onsite daily to ensure its success.

86. **PHUMC** and **CVC** hosted a public forum on April 19, 2021.

87. Importantly, this forum did not allow for public comments or feedback.

88. The decision by **PHUMC**, **Adams**, and **CVC** to proceed with a **TMC** was decided prior to this forum.

89. In fact, this forum was only to inform the neighborhood of its intentions to proceed without consideration from the neighbors.

90. **PHUMC**, **Adams**, and **CVC** did not host any public forums to receive feedback from the community.

91. **Denver** arbitrarily amended the zoning code to allow the **TMC**.

92. The authority to grant a permit for a **TMC** resides with a single **Denver** official.

93. This **Denver** official has unchecked power granted under an “emergency order.”

94. The power of this **Denver** official allows for this person to displace people who are being served in their current neighborhood and place them into any neighborhood in **Denver**, without public hearing or consideration of the concerns of those residents who will be directly affected.

95. **Denver** will not allow any public comments as it relates to **CVC**, **PHUMC**, and **Adams**’ permit request for a **TMC**.

FIRST CAUSE OF ACTION

(For Temporary Restraining Order, Preliminary and Permanent Injunction against Defendants CVC, PHUMC, Denver, and Adams)

96. Plaintiffs incorporate paragraphs 1 through 92 as if set forth herein.

97. Plaintiffs are filing a Verified Motion for Temporary Restraining Order and Preliminary Injection (“Motion”) contemporaneously herewith, the verified allegations of which are incorporated herein.

98. As demonstrated in the Motion, Defendants’ proposed **TMC** has not met the requirements set out by the city, pose a real danger to minors and school-aged children, does not

address the impact it will have on the neighborhood and displaces people from an area with available resources to an area not equipped to handle the purpose of the **TMC**.

99. Plaintiffs, along with minors and school-aged children, are in danger of real, immediate, and irreparable injury, which may be prevented by injunctive relief. As set forth above, the **TMC** will be located on the same grounds as a preschool, in a residential neighborhood with minors and school-aged children, within walking distance of seven schools, and does not have an adequate operation plan to address these issues.

100. Plaintiffs will suffer economic damages if they are forced to move their children from their current preschool located on the grounds of **PHUMC**.

101. Plaintiffs estimate a cost of \$8,000 to move one child from a preschool located at **PHUMC** to a location in which there is adequate security and safety measures in place to protect children.

102. In addition to the financial costs related to changing schools during a current school term, Plaintiffs' children will suffer academically when they are forced to make a school change in the middle of a school term.

103. Plaintiffs have a strong likelihood of success on the merits.

104. Defendants, unless and until enjoined and restrained by order of this Court, will cause great and irreparable injury to Plaintiffs as set forth herein and the Verified Motion for Temporary Restraining Order and Preliminary Injunction.

105. Plaintiffs have no adequate remedy at law for the injuries and threatened as an award of monetary damages would not provide an adequate remedy as set forth herein and in the Verified Motion for Temporary Restraining Order and Preliminary Injunction.

SECOND CAUSE OF ACTION

(Nuisance against Defendants CVC, PHUMC, and Adams)

106. Plaintiffs incorporate paragraphs 1 through 105 as if set forth herein.

107. Defendants, by seeking, allowing and operating an **TMC** at **PHUMC** without an adequate and sufficient operational plan have unreasonably and substantially interfered with plaintiffs' use and enjoyment of their respective properties.

108. The **TMC** presents an unreasonably dangerous activity to the Plaintiffs' and the Park Hill neighbors whose children attend preschool at **PHUMC**.

109. **CVC, PHUMC, and Adams'** collective failure to ensure an adequate operational plan and staff training unreasonably and substantially interfere with Plaintiffs' use and enjoyment of their respective properties.

110. Defendants' collective failure to provide for adequate safety measures at the **TMC** unreasonably and substantially interferes with Plaintiffs' use and enjoyment of their respective properties.

111. The **TMC** interference with Plaintiffs' respective land is offensive, annoying, and inconvenient.

112. The interference by Defendants has caused and will continue to cause Plaintiffs' economic harm and economic loss.

THIRD CAUSE OF ACTION

(Civil Conspiracy against Defendants CVC, PHUMC, and Adams)

113. Plaintiffs incorporate paragraphs 1 through 112 as if set forth herein.

114. **CVC, PHUMC, and Adams** acted with an objective to accomplish a nuisance by establishing an **TMC** at **PHUMC**.

115. **CVC, PHUMC, and Adams** were in agreement on the course of action to establish the **TMC** at **PHUMC** without an adequate and sufficient operational plan.

116. The practice of **CVC, PHUMC, and Adams** to establish the **TMC** at **PHUMC** without an adequate and sufficient operational plan significantly impacts the public.

117. Despite the significant public impact, the public forum hosted by **PHUMC** and **CVC** on April 19, 2021 did not allow for public comments or feedback.

118. As a result, Plaintiffs have and will suffer injury to their legally protected interest of peaceful enjoyment of their respective properties.

119. The practice by **CVC, PHUMC, and Adams** to establish the **TMC** at **PHUMC** without an adequate and sufficient operational plan is the cause Plaintiffs' injuries.

FOURTH CAUSE OF ACTION

(Declaratory Judgement against Defendant Denver)

120. Plaintiffs incorporate paragraphs 1-119 as if set forth herein.

121. On October, 15 2020, Denver enacted Ordinance No. 2020-0961, entitled Authority to Allow COVID-19 Related Temporary Uses on Former Chapter 59 Zoned Lands (the "Ordinance"). The effective date of use for this Ordinance is November 10, 2020.

122. The Ordinance is to provide occupancy spaces for homeless persons, either in temporary structures or parked motor vehicles, which Denver alleges is tied to the duration of the COVID-19 emergency public health orders issued by the State of Colorado and the City of Denver.

123. The only authority underlying Denver's ability to enact the Ordinance is found at C.R.S. § 30-28-121, which allows for temporary zoning regulations not to exceed six months when enacted with a public hearing.

124. As the Ordinance was enacted on November 10, 2020, its expiration should have occurred on or by April 10, 2021.

125. Because the TMC has nothing to do with development and growth, protection of lands or wildlife, and/or the preservation of historical importance, Colorado's Land Use Enabling Act of 1974, found at C.R.S. 29-20-101 et seq. is not applicable.

126. Accordingly, Plaintiffs request the Court enter an Order declaring the Ordinance expired and void as of April 10, 2021.

WHEREFORE, for the reasons set forth herein, Plaintiffs Kurt Monigle, Dave Rodman, Jean-Baptiste Varnier, Justin Lovac, and Blair Taylor respectfully that his Court enter an order as follows:

- 1) For an order enjoining Defendants Colorado Village Collaborative, City and County of Denver, Park Hill United Methodist Church, and Nathan Adams from establishing a Temporary Managed Campsite at Park Hill United Methodist Church.
- 2) For an order requiring Plaintiffs to submit \$500 into the Court's registry as security pursuant to C.R.C.P. 65.
- 3) Enter judgment in the favor Plaintiffs and against Defendants with regards to nuisance and civil conspiracy, in an amount to be established at trial, together with interests, costs, and attorney's fees, and for such other and further relief as the Court deems just and property under the circumstances.
- 4) Enter an Order declaring Denver's November 10, 2020 Ordinance expired and void as of April 10, 2021.

- 5) For such other and additional relief as the Court deems proper is therefore necessary to completely adjudicate the rights of all parties having an interest in the property have been made parties to this action.

Respectfully submitted this 6th day of May, 2021

ROBINSON & HENRY, P.C.

By: /s/ Douglas W. Baier

Heather Anderson Thomas, #33203

Douglas W. Baier, #53676

Attorneys for Plaintiffs

*Kurt Monigle, Dave Rodman, Jean Baptiste-Varnier,
Justin Lovac and Blair Taylor*

3. Defendant City and County of Denver ("**Denver**") is a municipal corporation located in the State of Colorado.

4. Defendant Park Hill United Methodist Church ("**PHUMC**") is a Colorado nonprofit corporation located at 5209 Montview Boulevard, Denver, Colorado.

5. Defendant Nathan Adams ("**Adams**") is an individual who, upon information and belief, works and resides in Denver, Colorado.

TEMPORARY MANAGED CAMPSITES

6. **CVC**, in cooperation with other community organizations, helps to establish Temporary Managed Campsites ("**TMC**").

7. **CVC** defines a **TMC** as a campsite secured area comprised of multiple temporary structures, or multiple spaces for parked motor vehicles, providing temporary sleeping accommodations for adults 18 years and older.

8. A **TMC** allegedly has a formal process for selecting residents.

9. According to **CVC**, a **TMC's** residents are to have convenient access to bathroom facilities, food/meals, and in some cases, personal storage opportunities.

10. The **TMC** operator is supposed to provide onsite staff to supervise and direct the campsite during its operating hours.

11. A **TMC** is required to comply with several conditions set forth by **Denver**.

12. A **TMC** must have an operation plan.

13. The operation plan must address the security for the campsite guest and adjacent prorates.

14. The operation plan must address a property maintenance plan.

15. The operation plan must include the provision of housekeeping facilities and services for campsite guests.

16. The operation plan must include a single point of contact in case of emergency.

17. The operation plan must include a description of measures to mitigate potential impacts to surrounding properties.

18. The operation plan must include commitments in place to occupy the subject property.

19. The operation plan must include a provision for removal after the zoning permit's expiration.

20. The 'TMC' is void upon the expiration or recession of all State of Colorado and Denver public health orders issued due to the COVID-19 pandemic.

21. When a 'TMC' is created, no additional transportation services are provided to the TMC.

22. When a 'TMC' is created, no additional sanitation services are provided to the TMC.

23. When a 'TMC' is created, no additional public safety resources are provided to the TMC.

CVC'S PERMIT WITH DENVER FOR A TMC

24. CVC plans to file for a permit with **Denver** to operate a TMC in the Park Hill neighborhood of Denver. Specifically, CVC intends to create a TMC in the parking lot of PHUMC.

25. **Adams** is the Lead Pastor of PHUMC.

26. In his capacity as lead pastor, **Adams** has allegedly invited CVC to use the parking lot of PHUMC for the TMC.

CURRENT TMCS IN CAPITOL HILL NEIGHBORHOOD

27. The Capitol Hill neighborhood has the most significant number of unsanctioned camping in the city of Denver.

28. Before the TMCs in the Capitol Hill Neighborhood, Capitol Hill experienced unsanctioned camps, including trash, health concerns, and camps set up in the rights-of-way.

29. CVC has received significant funding from **Denver** and other private donors.

30. **Denver** approved \$900,000 to CVC in February of 2021.

31. In October of 2020, **Denver** approved \$650,000 to be paid to CVC.

32. The current **TMC** in the Capitol Hill neighborhood is located several miles away from the proposed site at the **PHUMC**.

33. The current **TMC** in Capitol Hill is in an area with public transportation, client services, food security, and other readily available resources.

34. The **TMCs** operated by **CVC** in Capitol Hill are "low barrier" outdoor shelters.

35. A "low barrier" outdoor shelter does not require screening for any type of drug use, sex offender, or alcohol abuse.

36. **CVC** will not drug test clients living in a **TMC**.

37. **CVC** will not inspect bags or persons to prevent drugs from being brought into the **TMC**.

38. **CVC** will not deny entry into a **TMC** if someone appears to be intoxicated.

39. **CVC** will not enforce a curfew at a **TMC**.

PARK HILL'S SURROUNDING AREA AND LACK OF AVAILABLE RESOURCES.

40. **PHUMC** shares property with a preschool, daycare facility, and camp.

41. **PHUMC** is embedded in a residential neighborhood.

42. Within the five-block radius of **PHUMC**, no unsanctioned tent communities exist.

43. Hundreds of Park Hill families and their children of all ages use the public spaces, roads and sidewalks adjacent and near the proposed **TMC** at **PHUMC**.

44. In creating the **TMC** at **PHUMC**, **CVC** will displace clients from a **TMC** in the Capitol Hill neighborhood of Denver.

45. The proposed location at **PHUMC** does not have the same readily available resources as does the location in Capitol Hill.

46. The proposed location at **PHUMC** does not have easy access to resources for food, public transportation, health, or job resources.

47. Currently, **PHUMC** has limited parking for church services, temple services, and other church-related activities.

48. During a service, or other church-related activity, **PHUMC**'s congregants, once the parking lot is full, park on the street in the immediate neighborhood around the church.

49. When **PHUMC**'s congregants park in the immediate neighborhood during service, it is impossible for the residents of the neighborhood or their guests to find parking.

50. By placing a **TMC** at **PHUMC**, **CVC** will remove virtually all of the parking spots currently available at **PHUMC**.

51. Removing parking spots at **PHUMC** will increase the congestion and parking issues that **PHUMC**'s congregants cause as it relates to street parking in the neighborhood during church services, temple services, and other church related activities.

TMC CAUSES HARM TO MINORS AND SCHOOL-AGED CHILDREN

52. The proposed **TMC** will not have adequate security measures to protect the children and staff of the preschool, which is onsite at **PHUMC**.

53. Young children are onsite at **PHUMC** during the hours of 7 am to 6 pm each weekday.

54. There are more than two dozen minors who live in the immediate vicinity of **PHUMC**.

55. There are at least seven schools within walking distance of **PHUMC**.

56. The proposed **TMC** at **PHUMC** is within four blocks of Park Hill Elementary school.

57. Park Hill Elementary school services nearly 700 students in grades kindergarten through grade five, as well as preschool students.

58. The proposed **TMC** at **PHUMC** is four blocks from Montview Presbyterian preschool.

59. The proposed **TMC** at **PHUMC** is three blocks from Blessed Sacrament Catholic School which operates a pre-school, elementary school, and middle school.

60. **CVC** does not provide adequate training for staff at a **TMC** as it relates working in close proximity to children or minors.

61. **CVC**'s staff at a **TMC** have no professional training for mental health issues.

62. CVC's staff at a TMC have no professional training as it relates to drug and/or alcohol abuse.

63. CVC's staff at a TMC have no professional training as it relates to de-escalating conflicts – verbal or physical.

64. CVC's staff at a TMC undergo a brief, non-inclusive training of approximately two hours.

CVC'S PROPOSAL FOR A TMC AT PHUMC

65. CVC proposes a TMC with 45 tents and 50 people, excluding the additional tents for staff and shade.

66. CVC is submitting a permit with **Denver** for the TMC explicitly tied to a critical public health and safety need.

67. The permit to be filed by CVC for the TMC is based on a temporary zoning ordinance passed in 2020 as an emergency order tied to the duration of COVID-19 emergency public health orders issued by the State of Colorado and **Denver**.

68. Any permit submitted by CVC does not include the needed security and protection of minors living in the Park Hill neighborhood.

69. The TMC at **PHUMC** does not meet the requirements set out by **Denver**.

70. The TMC at **PHUMC** poses a great risk and danger to minor and school-aged children.

71. The TMC at **PHUMC** does not have an operation plan in place to protect school-aged children.

72. The TMC at **PHUMC** does not have an operation plan to address the nuisance, noise, and impact it will cause to the Park Hill neighborhood.

73. The proposed TMC at **PHUMC** would be the only TMC in a predominantly residential neighborhood.

74. Furthermore, there are already plans for a TMC to be located at Regis University, which is a mere 6 miles away from Park Hill and will provide adequate facilities for those in need. The TMC at Regis University has the physical capacity serve for more unhoused individuals than the existing TMC in Capitol Hill and the proposed TMC at **PHUMC**.

https://www.regis.edu/news/2021/news-releases/05/safe-outdoor-space?fbclid=IwAR02Vud7f16nHzKkVph8FAc4oyYYuO-u7bYKlHsMb0TesaTMS_bOGPwFfGo

75. Leaders of **CVC** repeatedly state the ideal location of a **TMC** is a location close to or across the street from unsanctioned tent communities.

76. Leaders of **CVC** repeatedly state the ideal location of a **TMC** is somewhere close to public transportation and public services for unhoused individuals.

77. Leaders of **CVC** have explicitly stated that the **PHUMC** is not an ideal location for a **TMC** and that **CVC** would prefer to locate its **TMC** somewhere else to better serve unhoused individuals.

78. A location near an unsanctioned tent community would offer those unhoused a much safer alternative.

79. A location close or across the street from an unsanctioned tent community would allow the **TMC** to be close to city and other public services.

NO PUBLIC REVIEW

80. **Denver** typically allows for a public review in zoning ordinance processes.

81. With the **TMC** ordinance, **Denver** does not allow for public review.

82. The decision-makers allowing a **TMC** in the Park Hill neighborhood do not live in the neighborhood.

83. The decision-makers allowing a **TMC** in the Park Hill neighborhood will not be onsite daily to ensure its success.

84. **PHUMC** and **CVC** hosted a public forum on April 19, 2021.

85. Importantly, this forum did not allow for public comments or feedback.

86. The decision by **PHUMC**, **Adams**, and **CVC** to proceed with a **TMC** was decided prior to this forum.

87. In fact, this forum was only to inform the neighborhood of its intentions to proceed without consideration from the neighbors.

88. **PHUMC, Adams, and CVC** did not host any public forums to receive feedback from the community.

89. **Denver** arbitrarily amended the zoning code to allow the **TMC**.

90. The authority to grant a permit for a **TMC** resides with a single **Denver** official.

91. This **Denver** official has unchecked power granted under an “emergency order.”

92. The power of this **Denver** official allows for this person to displace people who are being served in their current neighborhood and place them into any neighborhood in **Denver**, without public hearing or consideration of the concerns of those residents who will be directly affected.

93. **Denver** will not allow any public comments as it relates to **CVC, PHUMC, and Adams’** permit request for a **TMC**.

PLAINTIFFS SATISFY THE RATHKE ELEMENTS

94. "A preliminary injunction is designed to preserve the status quo or protect a party's rights pending the final determination of a cause. Its purpose is to prevent irreparable harm before a decision on the merits of a case. *Gitlitz v. Bellock*, 171 P.3d 1274, 1278 (Colo. App. 2007) (internal citations omitted). In considering a motion for a preliminary injunction, the trial court must find that the moving party has demonstrated (1) a reasonable probability of success on the merits; (2) a danger of real, immediate, and irreparable injury which may be prevented by injunctive relief; (3) lack of a plain, speedy, and adequate remedy at law; (4) no disservice to the public interest; (5) balance of equities in favor of the injunction; and (6) preservation by the injunction of the status quo pending a trial on the merits. *Id. citing to Rathke v. MacFarlane*, 648 P.2d 648, 653–54 (Colo.1982).

95. Plaintiffs have a strong likelihood of success on the merits. The proposed **TMC** has not met the requirements set out by the city, pose a real danger to minors and school-aged children, does not address the impact it will have on the neighborhood and displaces people from an area with available resources to an area not equipped to handle the purpose of the **TMC**.

96. Plaintiffs, along with minors and school-aged children, are in danger of real, immediate, and irreparable injury, which may be prevented by injunctive relief. As set forth above, the **TMC** will be located on the same grounds as a preschool, in a residential neighborhood with minors and school-aged children, within walking distance of seven schools, and does not have an adequate operation plan to address these issues.

97. Plaintiffs will suffer economic damages if they are forced to move their children from their current preschool located on the grounds of **PHUMC**.

98. Plaintiffs estimate a cost of \$8,000 to move one child from a preschool located at **PHUMC** to a location in which there is adequate security and safety measures in place to protect children.

99. In addition to the financial costs related to changing schools during a current school term, Plaintiffs' children will suffer academically when they are forced to make a school change in the middle of a school term.

100. Plaintiffs lack a plain, speedy, and adequate remedy at law. "Where claims for damages are premised on breaches of contracts, 'damages that are merely speculative, remote, imaginary, or impossible of ascertainment, cannot be recovered.'" *Home Shopping Club, Inc. v. Roberts Broad. Co. of Denver*, 961 P.2d 558, 562 (Colo. App. 1998).

101. Public interest favors an injunction. If the **TMC** proceeds as planned, the Park Hill neighborhood and children attending preschool at **PHUMC** are in danger without an adequate operation plan.

102. The balance of equities is in favor of the injunction.

103. Plaintiffs will be severely harmed if the **TMC** is allowed.

104. Finally, Plaintiffs are only asking this Court to maintain the status quo. Plaintiffs are requesting the Court to prevent the **TMC** from being placed at **PHUMC** so that the merits of this lawsuit can be decided in Court.

105. Defendants were provided advance notice of Plaintiffs intention to seek a preliminary injunction. Copies of drafts of these pleadings were provided to Defendants **CVC**, **PHUMC**, and **Adams** via e-mail on Thursday, May 6, 2021. Defendant **Denver** was notified via email and facsimile on Thursday, May 6, 2021.

106. Plaintiffs are prepared to offer security in such sum as the Court deems proper, for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained. Plaintiffs respectfully propose the amount of \$500.

WHEREFORE, for the reasons set forth herein, Plaintiffs respectfully request this Court enter a preliminary injunction preventing Defendants from placing a temporarily managed campsite at the Park Hill United Methodist church, order Plaintiffs to submit the amount of \$500 as security pursuant to C.R.C.P. 65 to the Court's registry and enter any other relief this Court deems appropriate.

Respectfully submitted this 6th day of May, 2021

ROBINSON & HENRY, P.C.

By: /s/ Douglas W. Baier
Heather Anderson Thomas, #33203
Douglas W. Baier, #53676
Attorneys for Plaintiffs
Kurt Monigle, Dave Rodman,
Jean Baptiste-Varnier, and Blair Taylor

VERIFICATION

I, Dave Rodman, declare under penalty of perjury under the law of Colorado that the foregoing is true and correct.

Dated: 5/6/2021

Dave Rodman
(Printed name)

DocuSigned by:
Dave Rodman
FCBCF5E98FA1411...
(signature)