

<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, STATE OF COLORADO Denver City & County Building 1437 Bannock Street Denver, CO 80202</p>	
<p>Plaintiff(s): KURT MONIGLE, an individual; DAVE RODMAN, an individual; JEAN BAPTISTE-VARNIER, an individual; JUSTIN LOVAC, an individual; and BLAIR TAYLOR, an individual</p> <p>v.</p> <p>Defendant(s): COLORADO VILLAGE COLLABORATIVE, a nonprofit corporation; CITY AND COUNTY OF DENVER, a municipal corporation; PARK HILL UNITED METHODIST CHURCH, a Colorado nonprofit corporation; NATHAN ADAMS, an individual; and TINA AXELRAD, in her official capacity as the ZONING ADMINISTRATOR OF THE CITY AND COUNTY OF DENVER</p>	<p>▲ COURT USE ONLY ▲</p>
<p>Heather Anderson Thomas, #33203 Douglas W. Baier, #53676 Robinson & Henry, P.C. 7555 East Hampden Avenue, Suite 600 Denver, Colorado 80231 Telephone (303) 688-0944 Email: heather@robinsonandhenry.com doug@robinsonandhenry.com <i>Attorneys for Plaintiffs</i></p>	<p>Case Number: 2021CV031432</p> <p>Div.: 275 Ctrm:</p>
<p>PLAINTIFFS' FIRST AMENDED COMPLAINT</p>	

Plaintiffs Kurt Monigle, Dave Rodman, Jean-Baptiste Varnier, Justin Lacov, and Blair Taylor (collectively referred to herein as "**Plaintiffs**") through their undersigned counsel, Robinson & Henry P.C., and for their First Amended Complaint against Colorado Village Collaborative, City and County of Denver, Park Hill United Methodist Church, Nathan Adams, and Tina Axelrad state as follows:

PARTIES

1. Plaintiffs are individuals who reside in the Park Hill Community of Denver, Colorado.

2. Defendant Colorado Village Collaborative ("**CVC**") is a Colorado nonprofit corporation with a principal office of 1373 Grant Street, Denver, Colorado.

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.

6. Defendant Tina Axelrad ("**Axelrad**") in her official capacity as the City and County of Denver Zoning Administrator.

JURISDICTION AND VENUE

7. Jurisdiction is proper before the court.

8. 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

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

10. **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.

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

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

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

14. A **TMC** is required to comply with several conditions set forth by **Denver**.
15. A **TMC** must have an operation plan.
16. The operation plan must address the security for the campsite guests and adjacent prorates.
17. The operation plan must address a property maintenance plan.
18. The operation plan must include the provision of housekeeping facilities and services for campsite guests.
19. The operation plan must include a single point of contact in case of emergency.
20. The operation plan must include a description of measures to mitigate potential impacts to surrounding properties.
21. The operation plan must include commitments in place to occupy the subject property.
22. The operation plan must include a provision for removal after the zoning permit's expiration.
23. 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.
24. When a **TMC** is created, no additional transportation services are provided to the **TMC**.
25. When a **TMC** is created, no additional sanitation services are provided to the **TMC**.
26. When a **TMC** is created, no additional public safety resources are provided to the **TMC**.

CVC's permit with Denver for a TMC

27. **CVC** filed 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**.
28. **Adams** is the Lead Pastor of **PHUMC**.

29. 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

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

31. 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.

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

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

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

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

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

37. The **TMC** operated by **CVC** in Capitol Hill is a "low barrier" outdoor shelters.

38. A "low barrier" outdoor shelter does not require screening for any type of drug use.

39. A "low barrier" outdoor shelter does not require screening for any type of sex offender.

40. A "low barrier" outdoor shelter does not require screening for any type of alcohol abuse.

41. The proposed **TMC** at **PHUMC** will be a "low barrier" outdoor shelter.

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

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

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

45. **CVC** will not remove a resident of a **TMC** if they are found in possession or using illegal drugs.

46. If a resident of a **TMC** is found in violation of using or possessing drugs, the resident will be sent to their personal space within the **TMC**.

47. After a resident, found in possession or using drugs, is sent to their personal space, **CVC** will begin an “Accountability Process.”

48. The “Accountability Process” has three steps.

49. The first offense of the “Accountability Process” will require the resident to have a conversation with the site manager regarding the instance (“First Offense”).

50. A resident of a **TMC** commits a second offense under the Accountability Process when a second incident of a resident being found in possession of or using illegal drugs occurs within 14 days of the First Offense (“Second Offense”).

51. If a resident commits a Second Offense, the resident will only receive a written warning.

52. If a resident’s Second Offense occurs more than 14 days after the First Offense, it will be considered a First Offense pursuant to the Accountability Process, and the resident will only be required to have a conversation with the site manager regarding the Second Offense involving the possession of or use of illegal drugs.

53. If a resident commits a third offense, the resident will be asked to leave the **TMC**.

54. For the resident of a **TMC** to commit a third offense, the third incident of possession and/or use of illegal drugs must occur within 14 days of the First Offense and the Second Offense (“Third Offense”).

55. **CVC** does not require a resident to leave a **TMC** immediately if the resident is found using drugs.

56. **CVC** does not require a resident to leave a **TMC** immediately if the resident is found in possession of drugs.

57. **CVC** does not have a plan in place for the disposal of illegal drugs found within a **TMC**.

58. **CVC** will not confiscate illegal drugs found within the **TMC** or in the possession of a resident of the **TMC**.

59. A resident of a **TMC** is allowed numerous violations of the “no drug” policy if the resident’s violations occur outside of two weeks.

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

61. **CVC** will not conduct an adequate background check for residents allowed at a **TMC**.

62. **CVC** conducts only limited background checks of potential residents of a **TMC**.

63. **CVC** conducts a background check limited to the Colorado Bureau of Investigation and the National Sex Offender Registry.

64. **CVC** does not conduct background checks for out of state offences of a resident in a **TMC**.

65. A potential resident of **TMC** with a violent criminal history in a state other than Colorado can be admitted to a **TMC**.

66. **CVC** limits the background checks with the Colorado Bureau of Investigation to the previous five years.

67. A potential resident of a **TMC** with violent criminal history, which occurred more than five years ago, can be admitted to a **TMC**.

Park Hill's surrounding area and lack of available resources

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

69. Because **PHUMC** shares property with a preschool, daycare facility, and a camp, the federal Drug Free School Zone Act, found at 21 U.S.C. § 860, applies to prohibit the possession or distribution of a controlled substance within one thousand feet of schools, playgrounds, and youth centers.

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

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

72. 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**.

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

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

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

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

77. 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.

78. 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.

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

80. 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

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

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

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

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

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

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

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

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

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

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

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

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

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

CVC's proposal for a TMC at PHUMC

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

95. On May 7, 2021, **CVC** submitted an application to **Denver** to obtain a permit for the **TMC** it wants to establish at **PHUMC**, which it claims is tied to a critical public health and safety need.

96. The application for the **TMC** permit filed by **CVC** for the **PHUMC TMC** was submitted pursuant to a “temporary use” zoning ordinance that became law upon a use determination made by the Denver Zoning Administrator in response to a question posed by the Executive Director of the Denver Community Planning and Development Department as to whether the Denver Zoning Code would allow “a temporary use” for occupancy spaces for “homeless persons, either in temporary structures or parked motor vehicles.” *See* Ordinance No. 2020-0961 (the “**Ordinance**”). (**Exhibit 1**).

97. **Denver** and **Axelrad** allege the Ordinance is tied to the duration of COVID-19 emergency public health orders issued by the State of Colorado and **Denver**, and indicates that the zoning permit allowing for **TMCs** “shall automatically expire and become null and void upon the expiration or rescission of all State of Colorado and City of Denver public health orders issued because of the COVID-19 pandemic.” *Id.*

98. Pursuant to the Use Determination made by **Axelrad**, the Ordinance allows a TMC to be established in “All Zone Districts” in the City of Denver. *Id.*

99. Despite the breadth of the Ordinance, the **Axelrad** elected the most narrow zoning permit use procedure applies, *i.e.*, administrative review only. This means no notice or public hearing is required for any potential TMC site.

100. After Plaintiffs filed their first Complaint on May 6, 2021, **Denver** and **Axelrad** then published an updated the Ordinance the following day, on May 7, 2021. For permits issued to zone lots located on land in a Denver Zoning Code zone district, the expiration date is now **December 31, 2023**.¹

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

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

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

104. The TMC at **PHUMC** does not have an adequate operational plan in place to protect school- and preschool-aged children.

105. 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.

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

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

¹ **Denver**'s website indicates the **Ordinance** was updated on May 6, 2021 with the corrected version posted May 7, 2021. Plaintiffs became aware of the updated **Ordinance** on May 10, 2021.

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

109. 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.

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

111. 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

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

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

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

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

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

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

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

119. Various neighbors and the Plaintiffs have sent written objections to Denver, Adams, and the **CVC** regarding the establishment of a **TMC** at **PHUMC**.

120. Certain Plaintiffs have children enrolled at the preschool, daycare facility, and/or children's camp located on the premises with **PHUMC**. These Plaintiffs have sent written opposition to Denver regarding their concerns with the establishment of a **TMC** alongside educational facilities for young children.

Violation of Plaintiffs Procedural Due Process Rights

121. **Denver** typically allows for a public review and hearing in zoning ordinance processes.

122. With the **TMC** ordinance, **Denver** does not allow for public review or for a public hearing.

123. **Denver** and **Axelrad** arbitrarily amended the zoning code to allow TMCs to be established in all zoning districts in the City and County of Denver.

124. Certain Plaintiffs have sent written opposition to **Denver** and/or the **CVC** regarding the establishment of a **TMC** at **PHUMC** as they previously chose to enroll their children in the preschool, daycare facility, and/or children's camp/afterschool program offered at **PHUMC** for various reasons.

125. The Plaintiffs' written opposition has not deterred **Denver** and/or **CVC** from their plans to establish a **TMC** at **PHUMC** despite agreeing to find alternative sites when the residents of Five Points and Globeville raised similar opposition to the planned establishment of TMCs in their neighborhoods.

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

127. This **Denver** official has unchecked power granted under an "emergency order."

128. 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.

129. **Axelrad** decided the permit procedure associated with the **Ordinance** would not allow for a public hearing.

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

131. **Denver** has not allowed Plaintiffs a fair opportunity to be heard.

132. By selecting the narrowest zoning permit procedure for use with the Ordinance, which does not allow for public hearing, **Axelrad** abused her discretion.

133. Plaintiffs are being forced to find alternative preschools, daycares, and/or children's camp/afterschool programs.

Misleading information regarding increase rate of crime

134. Upon information and belief there is an increased rate of crime at the TMC in Capital Hill. Plaintiffs have requested police reports from DPD relating to instances of criminal behavior and incident reports but have not yet been provided with any requested information.

135. CVC, in the operational plan submitted for the PHUMC site, claim that the prior TMC operated by CVC have had zero calls for police services.

136. CVC states in the operational plan when issues arise at a TMC, the Denver Police Department Co-Responder Line will be notified.

137. CVC, in the operation plan, does not distinguish if a call to the Denver Police Department Co-Responder Line would be considered a call for police services.

FIRST CAUSE OF ACTION

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

138. Plaintiffs incorporate paragraphs 1 through 137 as if set forth herein.

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

140. 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.

141. 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.

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

143. 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.

144. 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.

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

146. 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.

147. 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)

148. Plaintiffs incorporate paragraphs 1 through 147 as if set forth herein.

149. 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.

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

151. **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.

152. 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.

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

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

THIRD CAUSE OF ACTION
(Declaratory Judgement against Defendant Denver and Axelrad)

155. Plaintiffs incorporate paragraphs 1-154 as if set forth herein.

156. On October 15 2020, **Denver** enacted Ordinance No. 2020-0961, approved by **Axelrad**, 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.

157. 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.

158. 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.

159. As the **Ordinance** was enacted on November 10, 2020, its expiration should have occurred on or by April 10, 2021 pursuant to C.R.S. § 30-28-121.

160. After Plaintiffs filed their first Complaint, **Denver** and **Axelrad** updated the **Ordinance** on May 7, 2021. For permits issued to zone lots located on land in a Denver Zoning Code zone district, the expiration date is **December 31, 2023**.

161. Because the proposed **PHUMC 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.

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

163. The purpose of the **Ordinance** is to allow **TMCs** as a “temporary use” under the Denver Zoning Code, “tied first to the duration of the COVID-19 emergency public health orders issued by the State and City, and thereafter to a reasonable recovery period from the adverse housing impacts attributable to the COVID-19 pandemic.” *See* Ordinance No. 2020-0961.

164. As indicated above, the **PHUMC** site is also home to a preschool, daycare facility, and/or children’s camp/afterschool program. **CVC’s** proposed **TMC** at the **PHUMC** directly impacts parents whose children are enrolled in these programs, which include certain Plaintiffs.

165. Colorado has long recognized that a parent has a fundamental liberty interest regarding the care, custody and control of their children, and the fundamental right to make decisions for their children.

166. Certain Plaintiffs have sent written opposition to **Denver** and/or the **CVC** regarding the establishment of a **TMC** at **PHUMC** as they previously chose to enroll their children in the preschool, daycare facility, and/or children's camp/afterschool program offered at **PHUMC** for various reasons.

167. The Plaintiffs' written opposition has not deterred **Denver** and/or **CVC** from their plans to establish a **TMC** at **PHUMC** despite agreeing to find alternative sites when the residents of Five Points and Globeville raised similar opposition to the planned establishment of TMCs in their neighborhoods.

168. Because the **CVC** and **Denver** are ignoring these certain Plaintiffs and their concerns about the safety of their children, they are now being forced to find alternative preschools, daycares, and/or children's camp/afterschool programs.

169. By not providing these Plaintiffs a fair opportunity to be heard, **Denver** and **Axelrad** violated Plaintiffs procedural due process rights.

170. By selecting the narrowest zoning permit procedure for use with the Ordinance, which does not allow for public hearing, **Axelrad** abused her discretion.

WHEREFORE, for the reasons set forth herein, Plaintiffs Kurt Monigle, Dave Rodman, Jean-Baptiste Varnier, Justin Lacov, and Blair Taylor respectfully request that this 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 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, updated May 7, 2021, expired and void as of April 10, 2021, and the lack of a public hearing

concerning the planned TMC at PHUMC a violation of Plaintiffs' procedural due process rights.

- 5) Enter an Order declaring the Zoning Administrator's selection of administrative review as the only required zoning permit use procedure an abuse of discretion.

Respectfully submitted this 14th 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

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of May, 2021 a true and correct copy of the foregoing **PLAINTIFFS' FIRST AMENDED COMPLAINT** was filed with the Court and was served via Colorado Courts E-Filing System upon the following:

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By: /s/ Julie Vogel
Julie Vogel, Paralegal

Pursuant to C.R.C.P. 121 a true and correct copy of the foregoing with original or scanned signatures is maintained at the offices of Robinson & Henry, P.C. and will be made available for inspection or review upon request.