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**FORM 66**  
**RULES 16-1(2) and 16-1(19)(b)(ii)**

File No.  
New Westminster Registry

*In the Supreme Court of British Columbia*

Between

THE REDEEMED CHRISTIAN CHURCH OF GOD, BRITISH COLUMBIA

Petitioner

and

CITY OF NEW WESTMINSTER

Respondent

**PETITION TO THE COURT**

ON NOTICE TO:

CITY OF NEW WESTMINSTER  
511 Royal Avenue  
New Westminster, BC V3L 1H9

ATTORNEY GENERAL OF BRITISH COLUMBIA  
Ministry of Justice, Legal Services Branch  
6<sup>th</sup> Floor, 1001 Douglas Street  
Victoria, BC V8V 1X4

**This proceeding is brought for the relief set out in Part 1 below by the Redeemed Christian Church of God, British Columbia (the "Petitioner")**

If you intend to respond to this petition, you or your lawyer must

- (a) file a response to petition in Form 67 in the above-named registry of this court within the time for response to petition described below, and
- (b) serve on the petitioner
  - (i) 2 copies of the filed response to petition, and
  - (ii) 2 copies of each filed affidavit on which you intend to rely at the hearing.

**Orders, including orders granting relief claimed, may be made against you, without any further notice to you, if you fail to file the response to petition within the time for response.**

**Time for response to petition**

A response to petition must be filed and served on the petitioner,

- (a) if you were served with the petition anywhere in Canada, within 21 days after that service,
- (b) if you were served with the petition in the United States of America, within 35 days after that service,
- (c) if you were served with the petition anywhere else, within 49 days after that service, or
- (d) if the time for response has been set by order of the court, within that time.

(1) The address of the registry is: Begbie Square 651 Carnarvon Street New Westminster, BC V3M 1C9
(2) The ADDRESS FOR SERVICE of the petitioner is: Herb Dunton 3261 Rath Trevor Court Abbotsford, BC V3G 2X8  Fax number for service of the petitioner: N/A E-mail address for service of the petitioner: mmoore@jccf.ca
(3) The name and office address of the petitioner's lawyer is:  Marty Moore Justice Centre for Constitutional Freedoms #253, 7620 Elbow Drive SW Calgary, Alberta T2V 1K2 Direct line: (587) 998-1806

## CLAIM OF THE PETITIONER

### PART I: ORDERS SOUGHT

1. The Petitioner seeks the following:

- a. A Declaration pursuant to section 2(2)(b) of the *Judicial Review Procedure Act* and section 24(1) of the *Canadian Charter of Rights and Freedoms* (the “*Charter*”) that the decision of the Respondent cancelling the Petitioner’s contract to rent space in the Anvil Centre on July 21, 2018, for its youth conference (the “*Decision*”) was procedurally unfair, biased, unreasonable, and unjustifiably infringed the freedoms of conscience, religion, thought, belief, opinion, expression, and association and right to be free from discrimination on the basis of religion as protected by sections 2(a), 2(b), 2(d) and section 15(1) of the *Charter*, respectively;
- b. An Order pursuant to section 2(2)(a) of the *Judicial Review Procedure Act* and section 24(1) of the *Charter* quashing the *Decision*;
- c. A further Order pursuant to section 2(2)(a) of the *Judicial Review Procedure Act* and section 24(1) of the *Charter* prohibiting the Respondent from denying the use of its facilities to the Petitioner on the basis of the ideas, views, opinions, perspectives, values or beliefs as ascribed by the Respondent to the Petitioner or speakers selected by the Petitioner.

### PART II: FACTUAL BASIS

#### The Parties

2. The Petitioner Redeemed Christian Church of God, British Columbia, also known as Grace Chapel (“*Grace Chapel*”) is a multi-ethnic church that meets in downtown New

Westminster. Grace Chapel does not own any facilities, but rents meeting space in New Westminster for its Sunday services, events and office needs. For some of its events, Grace Chapel has previously rented space in the Anvil Centre: an arts, conference and events center located in downtown New Westminster and owned and operated by the City of New Westminster.

3. The Respondent City of New Westminster is a municipal corporation, subject to the *Charter* pursuant to section 32(1)(b). As government, the Respondent is obligated to uphold the *Charter* rights of persons affected by its decisions.

### **Background**

4. In May 2018, Grace Chapel entered into an agreement with the City of New Westminster (the “License Agreement”) to rent Ballroom West in the Anvil Centre on July 21, 2018 (the “Rental”), to host a one-day Christian youth conference themed “Let God Be True” based on the biblical reference of Romans 3:4 (the “Conference”).
5. By June 20, 2018, Grace Chapel had paid the entire cost of the Rental, pursuant to the License Agreement.
6. At 11:52 AM on June 21, 2018, 1130 News Radio posted an article on their website discussing the Conference.
7. Less than an hour later, at 12:41 PM on June 21, 2018, Heidi Hughes, Director of Sales and Marketing for the Anvil Centre, sent an email to Grace Chapel, stating:

We became aware today, that one of your event speakers / facilitators, Kari Simpson, highlighted for your July 21st, 2018 event, vocally represents views and a perspective that run counter to City Of [sic] New Westminster and Anvil Centre booking policy.

Specifically Anvil Centre booking policy restricts or prohibits user groups if they promote racism, hate, violence, censorship, crime or other unethical pursuits. In accordance with our

policy we are informing you that we are cancelling your booking and will immediately process a refund for the entirety of your booking fee.

8. Grace Chapel immediately requested that the Respondent reconsider its decision, but Ms. Hughes refused, confirming in writing that although she was willing to meet with Grace Chapel, “this does not change our decision and the event is cancelled.”
9. Subsequently, on July 6, 2018, counsel for Grace Chapel wrote to the Respondent requesting that it reverse its decision to cancel the Rental. The Respondent did not respond.

### **PART III: LEGAL BASIS**

10. The *Charter* imposes on government, including the Respondent, a duty of neutrality concerning matters of conscience and religion. The duty of neutrality is designed to ensure a neutral public space, where private persons are free to express their belief or non-belief without coercion, pressure or judgment on the part of public authorities. The duty of neutrality promotes and enhances authentic diversity in a free society, as envisioned by the *Charter*, and is essential to Canada’s multicultural nature. See *Mouvement laïque québécois v Saguenay (City)*, 2015 SCC 16.
11. The *Charter* also protects freedom of expression, including the right of individuals to express themselves in public places. See *Greater Vancouver Transportation Authority v Canadian Federation of Students — British Columbia Component*, 2009 SCC 31. Further, freedom of expression protects listeners as much as it protects speakers. See *Little Sisters Book and Art Emporium v Canada (Minister of Justice)*, 2000 SCC 69.
12. Another *Charter* freedom engaged in this case, is the freedom of association, through which political, cultural, racial and religious minorities are enabled to join with others in pursuit of

common interests and goals. See *Mounted Police Association v Canada (Attorney General)*, 2015 SCC 1.

13. Grace Chapel and each of the Conference speakers and attendees have the right under section 15(1) of the *Charter* to equal protection and benefit of the law without discrimination on the basis of their religious beliefs. Government action that imposes differential treatment and disadvantage on the basis of a protected ground, including religion, particularly where the decision perpetuates prejudice and stereotypes, violates this *Charter* right to equality. See *Little Sisters Book and Art Emporium v Canada (Minister of Justice)*, 2000 SCC 69.
14. These fundamental rights and freedoms, celebrated and protected in sections 2(a), 2(b), 2(d), and 15(1) must not be unreasonably or unjustifiably infringed by government. In administrative decisions affecting *Charter* rights, such as the Decision, government must engage in a proportionate balancing of any relevant statutory objectives against the relevant *Charter* protections, and determine how those *Charter* rights will best be protected in light of the statutory objectives. See *Doré v. Barreau du Québec*, 2012 SCC 12; *Loyola High School v. Québec (Attorney General)*, 2015 SCC 12; *Law Society of British Columbia v Trinity Western University*, 2018 SCC 32. A decision that fails to do so is unreasonable and constitutes an unjustifiable violation of the *Charter*.
15. As an administrative decision, the Decision must also be procedurally fair and not deny the Petitioner's rights to natural justice. See *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817. Further, the Decision must demonstrate reasonableness, including the existence of justification, transparency and intelligibility within the decision-making process. See *Dunsmuir v New Brunswick*, 2008 SCC 9.

16. The Decision of the Respondent, made in less than an hour without prior notice to the Petitioner, was not procedurally fair to the Petitioner and violated Grace Chapel's rights to natural justice. Grace Chapel was not provided with prior notice of the Respondent's concerns, or with an opportunity to respond to those concerns before the Decision was made. Further, the Respondent failed to provide Grace Chapel with adequate reasons for the Decision.
17. Additionally, an informed person, viewing this matter realistically and practically and having thought the matter through, would have a reasonable apprehension of bias on the part of the Respondent. For instance, in communicating its Decision, the Respondent appeared to level serious and unsubstantiated allegations of "racism, hate, violence, censorship, crime or other unethical pursuits" based on the unspecified "views" and "perspective" of a speaker chosen by Grace Chapel for its Conference. The timeframe and circumstances within which this Decision was made and issued also indicates that the Decision was made with bias based upon matters not legally relevant or appropriate. Subsequent comments made in the media by the Respondent's representative also evidence bias within the Decision, including comments that the Respondent was not comfortable with the Conference's "subject matter". Viewed objectively, the Respondent's actions and Decision creates a reasonable apprehension of bias, evidencing the Respondent's discrimination against the perceived and unspecified views and perspective of a speaker selected by Grace Chapel, and therefore against the views and perspective of Grace Chapel itself.
18. Further, the Decision was unreasonable and fails to disclose the existence of justification, transparency or intelligibility with the decision-making process.

19. The Decision evidences a breach of the Respondent's duty of neutrality by way of referencing and alleging unspecified "views" and "perspective" of a speaker that were asserted to "run counter" to the Respondent's policy.
20. The Respondent did not acknowledge the freedoms of conscience, religion, expression, and association or the right to equality of Grace Chapel and of those who would attend the Conference, let alone explain in its Decision how it represented a proportionate balance between the policy objectives and these fundamental *Charter* rights and freedoms. Rather, the Decision cancelled the Conference booking based on prejudice and negative stereotypes concerning unspecified religious views and perspective, and the association of the Conference with a speaker who "vocally represents" the unspecified views and perspective, thereby violating sections 2(a), 2(b), 2(d) and 15(1) of the *Charter*.
21. The Decision failed to provide meaningfully reviewable reasons which would permit understanding of why the Respondent cancelled the Conference. See *Canadian Centre for Bio-Ethical Reform v. South Coast British Columbia Transportation Authority*, 2018 BCCA 344.
22. Such further and other grounds as counsel may advise and as this Honourable Court may permit.

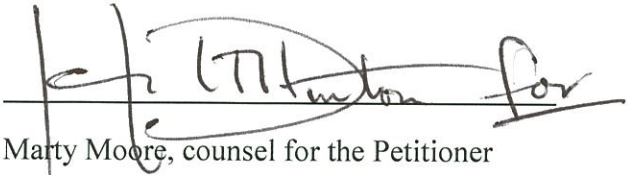
**PART IV: MATERIAL TO BE RELIED UPON**

23. Affidavit of Ronald Brown, Sworn December 27<sup>th</sup>, 2018;
24. The *Canadian Charter of Rights and Freedoms*;
25. The *Judicial Review Procedure Act*, RSBC 1996, c 241; and

26. Such further and other material as counsel may advise and as this Honourable Court may permit.

The petitioner estimates that the hearing of the petition will take 2 hours.

Date: December 28, 2018

  
Marty Moore, counsel for the Petitioner

***To be completed by the court only:***

Order made

☐ in the terms requested in paragraphs ..... of Part 1 of this petition  
☐ with the following variations and additional terms:

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Date:

.....  
Signature of ☐ Judge ☐ Master