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12 **Pro hac vice motion pending*

13 **UNITED STATES DISTRICT COURT**
14 **EASTERN DISTRICT OF WASHINGTON**
15 **AT RICHLAND**

16 LINDA CAMERON,

17 Plaintiff,

18 vs.

19 CITY OF RICHLAND,
20 WASHINGTON, A MUNICIPAL
21 CORPORATION,

22 Defendant.

CASE NO:

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF

JURY TRIAL REQUESTED

23 **INTRODUCTION**

24 1. This is a civil rights lawsuit brought to end the City of Richland's attempt to
25 coerce 70-year-old widow Linda Cameron into spending tens of thousands of
26 dollars to improve the City's property.
27

28 COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF - 1

1 2. Linda has lived in the same one-bedroom, one-bathroom Richland home for
2 42 years. She wants to renovate it by adding a second bedroom and bathroom.
3

4 Linda's plans for the renovation satisfy all the City's building and other health and
5 safety codes.
6

7 3. But the City refuses to grant Linda the requisite building permit unless she
8 spends tens of thousands of dollars renovating the City's property as well. Unless
9 Linda renovates a City street—by, among other things, widening it, installing
10 streetlights and constructing sidewalks, curbs, and gutters—the City will not allow
11 her to renovate her own home.
12

13 4. The City's condition on granting a permit to Linda is the type of "out-and-
14 out . . . extortion" that violates the Fifth Amendment's Takings Clause by
15 impermissibly burdening Linda's right not to have her property taken without just
16 compensation. *See Nollan v. Cal. Coastal Comm'n*, 483 U.S. 825, 837 (1987)
17 (citation omitted).
18

19 5. The City's unconstitutional condition also violates the Due Process Clauses
20 of the Fourteenth Amendment to the United States Constitution and Article I,
21 Section 3 of the Washington Constitution because it furthers no public health,
22 safety, environmental, or other legitimate reason for the denying Linda's permit
23
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1 application and because denying the application unduly oppresses Linda's property
2 rights.
3

4 6. Under the United States and Washington Constitutions, the City may not
5 hold Linda's property rights for ransom just because it wants upgraded streets but
6 does not want to pay for them.
7

8 **JURISDICTION**

9 7. Linda brings this civil rights lawsuit under the Fifth and Fourteenth
10 Amendments to the United States Constitution; the Civil Rights Act of 1871, 42
11 U.S.C. § 1983; the Declaratory Judgments Act, 28 U.S.C. § 2201, Article I,
12 Section 3, of the Washington Constitution; and 28 U.S.C. § 1367, seeking
13 injunctive and declaratory relief against the enforcement of Richland Municipal
14 Code §§ 12.10.020 and 12.10.010 as applied to Linda's building permit application
15 to renovate her home, and \$1 in nominal damages. This Court has jurisdiction over
16 this action under 28 U.S.C. §§ 1331 and 1367.
17
18
19

20 **VENUE**

21 8. Venue lies in this Court under 28 U.S.C. § 1391(b).
22
23

24 **PARTIES**

25 9. Plaintiff Linda Cameron is a United States citizen and resident of Richland,
26 Washington.
27

1 10. Defendant City of Richland (the “City”) is a municipal corporation located
2 in the State of Washington.
3

4
5 **FACTS**

6
7 11. For the last 42 years, Linda has lived in the same house at 1231 Geneva
8 Street in Richland, Washington.

9
10 12. Linda and her late husband, Gary, bought the house in 1977.

11 13. Linda’s house is an approximately-1,181-square-foot single-family home
12 built in 1948. It contains one small bedroom, bathroom, kitchen, and living room,
13 and two other much smaller rooms.
14

15 14. Sometime between 1948 and 1977, before Linda and Gary bought the house,
16 a previous owner added an enclosed porch of approximately 420 square feet and a
17 one-car carport to the house.
18

19 15. Linda and Gary talked for years about renovating their home but were never
20 able to do so while Gary was alive.
21

22 16. After Gary died in 2012, Linda decided she would renovate the house. After
23 all, it was the home she and Gary shared during their life together and Linda likes
24 her neighbors and the neighborhood.
25
26
27

1 17. Linda hired a design-build company—AJ Construction and Development,
2 LLC, (“AJ”)—to plan the renovation, obtain the necessary permits; demolish the
3 existing porch and carport; and build a new bedroom and bathroom, and an
4 additional living area, totaling roughly 744 square feet, and a two-car garage.
5

6 18. The total estimated cost of the project was about \$143,000, plus more than
7 \$12,000 in sales taxes.
8

9 19. In October 2018, AJ submitted plans for Linda’s renovation as part of the
10 application to obtain the necessary building permit.
11

12 20. Linda’s application satisfied all the requirements for a permit under the
13 City’s building codes.
14

15 21. The City’s building permit and inspection office had no objections to the
16 application and was prepared to approve Linda’s permit.
17

18 22. On October 30, 2018, however, the City’s public works department
19 demanded that Linda’s permit application be denied unless Linda complied with
20 Richland Municipal Code § 12.10.020.¹
21

22 23. Richland Municipal Code § 12.10.020 provides:

23
24 Whenever a building permit application is made for
25 alterations or repairs to a residential or commercial
26

27 ¹ See Attached Ex. A (Oct. 30 Rejection Letter).

1 property within the city, the person seeking such a permit
2 shall install improvements as required in RMC 12.10.010;
3 except that the requirements for installation of such
4 improvements shall be waived if one of the following
5 criteria is met:

6 A. The total alterations or repairs to a residential
7 property are less than \$50,000 in valuation within
8 any two-year period

9 24. Richland Municipal Code § 12.10.010 in turn provides:

10 [A]s a portion of such construction there shall be built sidewalks,
11 curbs and gutters on all sides of such property that may adjoin
12 property dedicated and existing as a public street, in conformance
13 herewith, and such sidewalks, curbs and gutters shall extend the
14 full distance that such property is sought to be occupied as a
15 building site for residential or commercial construction . . . that
16 may adjoin property dedicated and existing as a public street. If
17 the paved width of the adjacent public street does not include
18 curbs and gutters and is not wide enough to construct the curbs,
19 gutters, and sidewalks in accordance with the planned roadway
20 width, as determined by the city engineer and the city's street
21 functional classification system . . . [the] construction shall
22 include widening of the paved street to conform with the width
23 specified by the city engineer and street lights and storm drain
24 system improvement as needed to complete the street in
25 accordance with city standards

26 25. The public works department determined that Linda's planned
27 improvements subjected her to the requirements of Richland Municipal Code
28 § 12.10.020.

1 26. The public works department denied Linda's permit application and
2 demanded Linda submit new plans that included the improvements required by
3
4 Richland Municipal Code § 12.10.010.

5 27. Thus, under the Richland Municipal Code, the City refuses to grant Linda
6
7 the necessary permit to renovate her own home unless she also pays for and makes
8 unrelated improvements along an adjoining public street because the planned
9
10 renovations are valued at more than \$50,000.

11 28. Unless Linda amends her plans to include these unrelated improvements and
12
13 agrees to pay for them, the City will not grant Linda the requisite permit for her
14
15 home renovation.

16 29. The only public street that adjoins Linda's property is Fowler Street, which
17
18 borders the back of her property.

19 30. As shown in the following picture, Fowler Street runs more than 400 feet
20
21 along Linda's back property line.
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17 31. Richland Municipal Code § 12.10.010 requires Linda to make significant
18 improvements to this stretch of Fowler Street, including by widening the street and
19 installing sidewalks, curbs, and gutters.

20
21 32. Linda received an initial estimate for the cost of the improvements to Fowler
22 Street required by the City to satisfy Richland Municipal Code § 12.10.010 and
23 obtain the permit to renovate her home. Those improvements would cost Linda
24 approximately \$60,000.
25

1 33. Linda's planned renovation will not have any impact on the street that the City
2 wants her to rebuild.
3

4 34. Linda's planned renovation does not adversely affect public health, safety,
5 the environment, or any other issue the government has a legitimate interest in.
6

7 35. Linda's planned renovation does not change the use of her property. Her
8 single-family home will remain a single-family home.
9

10 36. Linda's planned renovation will not result in any additional traffic on Fowler
11 Street.
12

13 37. If Fowler Street is suffering from some deficiency, that deficiency preexists
14 Linda's planned home renovation and has nothing to do with Linda's planned
15 renovation.
16

17 38. The City's demand that Linda pay to renovate the City's streets has nothing
18 to do with any impact of Linda's planned renovation. The City simply wants Linda
19 to pay because the City does not want to pay.
20

21 39. Linda cannot afford to pay for both her home renovations and the Fowler
22 Street renovations required by Richland Municipal Code §§ 12.10.020 and
23 12.10.010.
24
25
26
27

1 40. Because Linda cannot afford to comply with Richland Municipal Code
2 §§ 12.10.020 and 12.10.010, the City will not grant her building permit
3 application.
4

5 41. So long as Richland Municipal Code §§ 12.10.020 and 12.10.010 are applied
6 to Linda, the City will not grant Linda the required permit to renovate her home of
7 42 years.
8

9 42. Because of the City's unconstitutional actions, Linda's planned renovations
10 have been stalled for over a year.
11

12 **INJURY TO PLAINTIFF**

13
14 43. The City's application of Richland Municipal Code §§ 12.10.020 and
15 12.10.010 to Linda's permit application to renovate her home has caused and will
16 continue to cause Linda grave and irreparable harm.
17

18 44. Linda cannot legally renovate the home she has lived in for 42 years unless
19 she obtains a permit from the City as required by the Richland Municipal Code.
20

21 45. Linda cannot legally acquire the City's required permit unless she satisfies
22 the requirements of Richland Municipal Code §§ 12.10.020 and 12.10.010.
23

24 46. As applied to Linda, Richland Municipal Code §§ 12.10.020 and 12.10.010
25 require her to spend approximately \$60,000 on unrelated renovations to the City's
26 property in order to obtain the permit required to renovate her home.
27

1 47. By conditioning the grant of a permit required to renovate Linda's home on
2 her agreeing to pay for unrelated renovations to the City's property, the City is
3 attempting to coerce Linda to forfeit her constitutional right not to have her
4 property taken without just compensation.
5

6
7 48. By conditioning the grant of a permit required to renovate Linda's home on
8 her agreeing to pay for unrelated renovations to the City's property, the City is
9 attempting to coerce Linda into paying for the City's property when she has no
10 legal obligation to do so.
11

12 49. Linda cannot afford to renovate the City's property and also renovate her
13 own property.
14

15 50. Because of the City's application of Richland Municipal Code §§ 12.10.020
16 and 12.10.010 to her permit application, Linda has been denied the right to
17 renovate her home.
18

19 51. There is no public health, safety, environmental, or other legitimate reason
20 for the City to deny Linda's right to renovate her home.
21

22 52. The City's refusal to grant Linda the right to renovate her home unless she
23 also pays tens of thousands of dollars for unrelated renovations to the City's street
24 unduly burdens Linda's right to use and enjoy her home.
25
26
27

1 53. But for the City’s application of Richland Municipal Code §§ 12.10.020 and
2 12.10.010 to Linda’s permit application to renovate her home, she would qualify
3
4 for and already have obtained the requisite permit to complete her planned
5 renovations.

6
7 **CONSTITUTIONAL VIOLATIONS**

8 **First Claim for Relief**

9 **(Unconstitutional Conditions – Exactions – Fifth Amendment)**

10
11 54. Plaintiff incorporates and realleges paragraphs 1–53.

12 55. Richland Municipal Code §§ 12.10.020 and 12.10.010 reflect the City’s
13
14 policy of demanding that homeowners pay for unrelated renovations to City
15 property as a condition of renovating their homes.

16 56. The City’s application of Richland Municipal Code §§ 12.10.020 and
17
18 12.10.010 to Linda imposes an unconstitutional condition on the exercise of her
19 Fifth Amendment rights and her property rights and constitutes an unconstitutional
20 exaction.

21
22 57. Linda’s planned home renovation does not change the use of her property.
23
24 Her single-family home will remain a single-family home, and her renovations will
25 not cause any additional traffic on Fowler Street or have any other impacts on
26 Fowler Street.

1 58. If Fowler Street is suffering from some deficiency, that deficiency preexists
2 Linda's planned home renovation and has nothing to do with Linda's planned
3 home renovation.
4

5 59. As applied to Linda's home renovation, the burdens imposed by Richland
6 Municipal Code §§ 12.10.020 and 12.10.010 do not substantially advance the same
7 government interest that would furnish a valid ground for denial of Linda's
8 renovation permit.
9

10
11 60. As applied to Linda's home renovation, the burdens imposed by Richland
12 Municipal Code §§ 12.10.020 and 12.10.010 are not roughly proportional, in
13 nature or extent, to the impact of Linda's home renovation.
14

15 61. Linda cannot afford to renovate the City's property and also renovate her
16 own property.
17

18 62. But for the City's application of Richland Municipal Code §§ 12.10.020 and
19 12.10.010 to Linda's permit application to renovate the home she has lived in for
20 more than 42 years, Linda would qualify for and have already obtained the
21 requisite building permit to complete her planned renovations to her home.
22

23 63. Unless the City's application of Richland Municipal Code §§ 12.10.020 and
24 12.10.010 to Linda's home renovation permit application is declared
25

1 unconstitutional and enjoined, Linda will continue to suffer grave and irreparable
2 harm.

3
4 **Second Claim for Relief**

5 **(Due Process – Fourteenth Amendment)**

6
7 64. Plaintiff incorporates and realleges paragraphs 1–63.

8 65. Richland Municipal Code §§ 12.10.020 and 12.10.010 reflect the City’s
9 policy of demanding that homeowners pay for unrelated renovations to City
10 property as a condition of renovating their homes.

11
12 66. The City’s application of Richland Municipal Code §§ 12.10.020 and
13 12.10.010 to Linda violates her property rights to renovate, use, and enjoy her
14 home.

15
16 67. The City’s application of Richland Municipal Code §§ 12.10.020 and
17 12.10.010 to Linda fails to serve any legitimate government objective and is so
18 arbitrary and irrational that it violates the Due Process Clause of the Fourteenth
19 Amendment.
20

21
22 68. There is no public health, safety, environmental, or other legitimate reason
23 for the City to deny Linda’s right to renovate her home.

24
25 69. Linda’s renovation plans satisfied all the requirements for a permit under the
26 City’s building codes.

1 70. The City’s building permit and inspection office had no objections to
2 Linda’s plans and was prepared to approve her permit.
3

4 71. The sole reason for the City’s denial of Linda’s permit is her failure to
5 comply with its condition that she pay for unrelated renovations to the City’s
6 property—a street that her home renovation will not impact.
7

8 72. Linda cannot afford to renovate the City’s property and also renovate her
9 own property.
10

11 73. But for the City’s application of Richland Municipal Code §§ 12.10.020 and
12 12.10.010 to Linda’s permit application to renovate her home, Linda would qualify
13 for and have already obtained the requisite building permit to complete her planned
14 renovations to her home.
15

16 74. Unless the City’s application of Richland Municipal Code §§ 12.10.020
17 and 12.10.010 to Linda’s home renovation permit application is declared
18 unconstitutional and enjoined, Linda will continue to suffer grave and irreparable
19 harm.
20
21

22 **Third Claim for Relief**

23 **(Due Process – Washington Constitution Article I, Section 3)**
24

25 75. Plaintiff incorporates and realleges paragraphs 1–74.
26
27

1 76. Richland Municipal Code §§ 12.10.020 and 12.10.010 reflect the City's
2 policy of demanding that homeowners pay for unrelated renovations to City
3 property as a condition of renovating their homes.
4

5 77. The City's application of Richland Municipal Code §§ 12.10.020
6 and 12.10.010 to Linda violates her property rights to renovate, use, and enjoy her
7 home.
8

9 78. The City's application of Richland Municipal Code §§ 12.10.020 and
10 12.10.010 to Linda fails to substantially advance any legitimate government
11 objective.
12

13 79. There is no public health, safety, environmental, or other legitimate reason
14 for the City to deny Linda's right to renovate her home.
15

16 80. Linda's renovation plans satisfied all the requirements for a permit under the
17 City's building codes.
18

19 81. The City's building permit and inspection office had no objections to
20 Linda's plans and was prepared to approve her permit.
21

22 82. The sole reason for the City's denial of Linda's permit is her failure to
23 comply with its condition that she cannot make the renovations to her home unless
24 she also pays for unrelated renovations to the City's property—a street that her
25 home renovation will not impact.
26
27

1 83. Linda cannot afford to renovate the City's property and also renovate her
2 own property.
3

4 84. The application of Richland Municipal Code §§ 12.10.020 and 12.10.010 to
5 Linda's permit application unduly oppresses Linda's constitutional right to use and
6 enjoy her property.
7

8 85. But for the City's application of Richland Municipal Code §§ 12.10.020
9 and 12.10.010 to Linda's home renovation permit application, she would qualify
10 for and have already obtained the requisite building permit to complete her planned
11 renovations to her home.
12

13 86. Unless the City's application of Richland Municipal Code §§ 12.10.020 and
14 12.10.010 to Linda's home renovation permit application is declared
15 unconstitutional and enjoined, Linda will continue to suffer grave and irreparable
16 harm.
17

18
19 **PRAYER FOR RELIEF**

20
21 Wherefore, Plaintiff respectfully requests relief as follows:

22 A. For entry of judgment declaring that Richland Municipal Code §§ 12.10.020
23 and 12.10.010 violate the Fifth and Fourteenth Amendments to the United
24 States Constitution as well as Article I, Section 3, of the Washington
25 Constitution as applied to Plaintiff Linda Cameron;
26
27

- 1 B. An Order permanently enjoining Defendant from further applying any
2 unconstitutional condition via Richland Municipal Code §§ 12.10.020
3 and 12.10.010 to Plaintiff Linda Cameron’s application for a building permit
4 to renovate her home;
5
6 C. For an award of nominal damages in the amount of \$1 for the violation of
7 Plaintiff Linda Cameron’s federal constitutional rights;
8
9 D. For an award of attorneys’ fees, costs, and expenses in this action pursuant
10 to 42 U.S.C. § 1988 and Washington Revised Code § 7.24.100; and
11
12 E. For such further legal and equitable relief as the Court may deem just and
13 proper.
14

15 Dated this 8th day of October, 2019
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**Motions for admission
pro hac vice pending*

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