



Written by [Bob Adelman](#) on February 16, 2024

## Complaint Filed After Hawaii County Fines Rabbi for Holding Religious Services in His Home

The Chabad Jewish Center of the Big Island, located in Hawaii County on the Island of Hawai'i, and its informal leader, Rabbi Levi Gerlitzky, [filed a complaint on Tuesday](#) against the county. For four years, Gerlitzky has been holding informal services in his home without a problem.

But when Hawaii County Planning Director Zendo Kern learned about those services, he began a systematic persecution of the Rabbi and his church.

Kern filed a complaint against Gerlitzky in February 2023, followed by a notice that he and the county were levying daily fines against him despite Gerlitzky's repeated attempts to resolve the dispute. As the complaint details, it was clearly a campaign against the rabbi and his congregation, and Kern was determined to enforce the illegal and unconstitutional county rule prohibiting those meetings.

With the assistance of First Liberty Institute (FLI), Rabbi Gerlitzky filed the complaint, charging Kern and the county with attempting to enforce the rule.

The complaint stated:

Defendants [Kern and the county] attempt to prevent Jewish residents of the Big Island from gathering together for prayer and celebration in accordance with their faith in the home of their Rabbi.

None of the U.S. Constitution, the Hawaiian Constitution, or federal law tolerate such restrictions, and neither can this Court [Hawaii's U.S. District Court]...

Hawai'i County ("the County") has waged a regulatory war on the Center and its Rabbi, demanding that it cease any religious prayers or celebrations out of Rabbi Gertlizky's home and levying thousands of dollars in fines against the Center.

It detailed the deliberate and intentional discrimination against the rabbi and his gathering:

Hawai'i County Code ... prohibits "[c]hurches, temples and synagogues" from operating in a [residential] district unless "a use permit is issued for [the] use." And, critically, use permits are required not only for "[c]hurches, temples and synagogues" themselves but also for the



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“meeting facilities for churches, temples, synagogues and other such institutions in [residential] ... districts.”

In other words, in [residential] districts in Hawai‘i County, meeting facilities are permissible ... **only if they are secular.** [Emphasis in original.]

The rabbi’s neighbors are free to host beer parties and other secular events without a peep from Kern:

Other homes on Rabbi Gerlitzky’s street have hosted large events. For example, 75-275 Nani Kailua Drive has hosted consistently, sometimes with fifteen cars parked outside....

Those secular gatherings have not incurred fines and threats for the homeowners who host the events.

As another example ... a member of the community who lives two miles away, in a neighborhood with much less street parking available, received permission — sans any use permit — to host musical events and talks on spirituality in his home (known as the “Pyramid House”).

The complaint points out the logical inconsistency involved when the county calls Rabbi Gerlitzky’s informal gatherings a “synagogue”:

Indeed, simply hosting religious prayer celebrations at the residence does not transmogrify [i.e., convert] it into a synagogue, as that term is understood within the Jewish faith tradition, any more than hosting a home Bible study or Christmas party transforms a Christian’s residence into a Church.

It is also not a commercial undertaking, as Rabbi Gerlitzky and the Center charge no membership fees and accept only donations.

Everything in the home is for the Gerlitzkys’ personal use — just as any parsonage would be.

Kern, unwilling to enter into a conversation with the rabbi to resolve the situation amicably (with the rabbi offering to make some concessions initially), instead

ordered the Center to (1) “cease and desist from operating the Chabad Jewish Center Big Island on the subject property” and (2) “[p]ay a civil fine of ... \$1,000.00” by April 17, 2023 or risk incurring “daily fines in the amount of \$100.00 per day beginning on April 18, 2023.”

As of the date of the filing of the complaint those faux fines exceed \$50,000 and counting.

All of this violates the rights guaranteed under the U. S. Constitution and the State of Hawaii’s constitution. The complaint is clear:

By fining the Center while allowing comparable secular gatherings to occur in the same area, the County’s actions substantially burden the Center and Rabbi Gerlitzky’s religious free exercise in practice in a way that is not neutral or generally applicable.

Kern is the one driving the discriminatory bus here:



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Defendant Kern likewise has unreasonably imposed a substantial burden on Plaintiffs' free-exercise rights with no compelling justification by (1) singling out the Center's religious events for prosecution and (2) imposing recurring fines regardless of the Center's actions.

The discrimination is deliberate and intentional:

It is the County's policy and practice to prosecute supposed violations of Hawai'i County Code ... only when the violating party hosts Jewish gatherings.

The County's enforcement decisions are neither neutral nor generally applicable, as other religious and non-religious meetings of comparable size have occurred unmolested in the zoning district of Rabbi Gerlitzky's home.

Accordingly,

Plaintiffs therefore seek entry of a judgment declaring that Rabbi Gerlitzky and the Center may use Rabbi Gerlitzky's home to host religious meetings, prayers, and celebrations, even if on behalf of the Chabad Jewish Center of the Big Island.

Along with legal fees, of course, to be awarded to First Liberty Institute, the largest legal organization in the nation that is dedicated exclusively to defending religious groups such as Gerlitzky's from unjustified and unconstitutional attacks by overzealous government officials like Kern.



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