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2 **IN THE UNITED STATES DISTRICT COURT**
3 **FOR THE DISTRICT OF PUERTO RICO**

4 **WATCHTOWER BIBLE TRACT**
5 **SOCIETY OF NEW YORK, INC., et al.,**

6 **Plaintiffs,**

7 **v.**

8 **MUNICIPALITY OF AGUADA, et al.,**

9 **Defendants.**

CASE NO. 16-1207 (GAG)

10
11 **OPINION, ORDER AND TEMPORARY RESTRAINING ORDER**

12 On February 4, 2016, Watchtower Bible And Tract Society of New York and
13 Congregación Cristiana de los Testigos de Jehová (collectively “Plaintiffs”) filed suit against the
14 following Municipalities: Aguada, Aguas Buenas, Añasco, Arecibo, Barceloneta, Cabo Rojo,
15 Camuy, Canóvanas, Carolina, Cataño, Cayey, Cidra, Coamo, Corozal, Fajardo, Florida, Guánica,
16 Guayama, Hatillo, Hormigueros, Humacao, Isabela, Juana Díaz, Loíza, Luquillo, Manatí,
17 Mayagüez, Naguabo, Patillas, Río Grande, Salinas, San Germán, San Lorenzo, Toa Alta, Toa Baja,
18 Vega Alta, Villalba and Yabucoa (hereinafter “Defendant Municipalities”),¹ alleging violations of
19 their right to free speech and free exercise of religion, under the First and Fourteenth Amendments
20 of the Constitution of the United States, pursuant to 42 U.S.C. § 1983. (Docket No. 1.) Plaintiffs
21 request that the Court issue a declaratory judgment and grant a temporary restraining order

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23 ¹ The various Defendant-Municipalities herein comprise a majority of the remaining municipal entities
24 in the Commonwealth of Puerto Rico, not named in the complaint in Case No. 04-1452, which included as
defendants the municipalities of Bayamón, Caguas, Dorado, Gurabo, Guaynabo, Ponce, Trujillo Alto, San Juan,
Santa Isabel, Vega Baja and Yauco.

1 (“TRO”), as well as preliminary and permanent injunctive relief mandating that the named
2 defendants comply with the terms of the permanent injunctive relief issued in Watchtower Bible
3 and Tract Soc’y of New York v. Mun. of Santa Isabel, Case No. 04-1452 (“Watchtower Phase I”).

4 After careful consideration, the Court **GRANTS in part and DENIES in part** Plaintiffs’
5 Request for Temporary Restraining Order at Docket No. 2. Plaintiffs’ Request for Preliminary
6 Injunction is hereby **HELD IN ABEYANCE** until March 15, 2016 for the reasons and directives
7 set forth below.

8 **I. Standard of Review**

9 A TRO is an extraordinary remedy that should not be granted unless the movant proves the
10 following elements: “(1) the plaintiff’s likelihood of success on the merits; (2) the potential for
11 irreparable harm in the absence of an injunction; (3) issuing an injunction will burden the
12 defendants less than denying an injunction would burden the plaintiffs; and (4) the effect, if any,
13 on the public interest.” See González-Droz v. González-Colón, 573 F.3d 75, 79 (1st Cir. 2009).

14 The Supreme Court has recognized that “[t]he award of an interlocutory injunction by
15 courts of equity has never been regarded as strictly a matter of right, even though irreparable injury
16 may otherwise result to the plaintiff,” and that where an injunction will adversely affect a public
17 interest for whose impairment, even temporarily, an injunction bond cannot compensate, the court
18 may withhold relief until a final determination of the rights of the parties, though the postponement
19 may be burdensome to the plaintiff.” Weinberger v. Romero-Barceló, 456 U.S. 305, 312-13
20 (1982) (internal quotations omitted).

21 **II. Legal Analysis**

22 “A preliminary injunction is an extraordinary remedy never awarded as of right.” Winter
23 v. Nat. Res. Def. Council, Inc., 555 U.S. 7, 24 (2008). “In each case, courts must balance the
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1 competing claims of injury and must consider the effect on each party of the granting or
2 withholding of the requested relief.” Id. (internal quotations omitted).

3 1. Likelihood of success on the merits

4 This factor weighs in favor of Plaintiffs given the doctrine of *stare decisis* (i.e., First
5 Circuit Opinions in Watchtower Bible and Tract Soc’y of New York v. Sagardía de Jesús, et al.,
6 634 F.3d 3 (1st Cir. 2011) (finding Puerto Rico’s control access law constitutional as applied and
7 recognizing that Jehovah’s Witnesses are allowed to enter urbanizations to engage in
8 constitutionally protected activity), reh’g denied, 638 F.3d 8, cert. denied, 132 S. Ct. 549 (2011);
9 and Watchtower Bible and Tract Soc’y of New York v. Mun. of San Juan, 773 F.3d 1 (1st Cir.
10 2014) (affirming the District Court’s remedial scheme crafted on remand) cert. denied, 135 S. Ct.
11 2395 (2015)). The Court also considers the fundamental constitutional rights involved, the
12 Witnesses’ right to free speech and exercise of religion on public property, and finds that Plaintiffs
13 are likely to succeed on the merits.

14 2. Irreparable Harm

15 Plaintiffs claim they risk irreparable harm absent injunctive relief in light of their upcoming
16 religious activity, an annual worldwide campaign to invite their neighbors to attend the Memorial
17 of Christ’s death, an activity catalogued as the most sacred event of their religious practice.
18 (Docket No. 2 at 24.) Thus, Plaintiffs argue that in view of the upcoming religious activity,
19 imminent and irreparable harm will result if Jehovah’s Witnesses are not allowed to engage in their
20 time-sensitive religious speech in public streets. Id. at 25. “A burden on protected speech always
21 causes some degree of irreparable harm.” Bl(a)ck Tea Soc’y v. City of Boston, 378 F.3d 8, 15 (1st
22 Cir. 2004) (citing Elrod v. Burns, 427 U.S. 347, 373-74 (1976)). Notwithstanding the above, the
23 Court notes that this very harm is present, and will continue to be present, absent a comprehensive
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1 remedial scheme that is fully incorporated from start to finish, as with the original Defendant
2 Municipalities in Watchtower Phase I.

3 3. Public Interest

4 “[A] determination of the public interest necessarily encompasses the practical effects of
5 granting or denying preliminary injunctive relief.” Bl(a)ck Tea Soc’y, 378 F.3d at 15. There is
6 significant public interest in that Jehovah’s Witnesses engage in free speech and exercise religious
7 faith in all public areas. As the Court has mentioned in the past, this is the same First Amendment
8 right Catholics exercise when they partake in Via Crucis processions in public streets during Holy
9 Week, (see Case No. 04-1452, Docket No. 1512), and politicians who go door-to-door greeting
10 constituents while campaigning for primaries and general elections, as will occur in the upcoming
11 months. See id. at Docket No. 1074.

12 4. No other adequate remedy at law

13 There is no other remedy at law. Plaintiffs do not seek monetary damages. The singular
14 relief sought is injunctive relief granting them access to public streets within gated communities.

15 5. Weighing of the equities

16 At first, the Court’s remedial scheme in this case may seem as simple as ordering relief
17 identical to that in Watchtower Phase I. The task at hand, however, is much more complex. This
18 case is not simply about adopting overnight the orders of the First Circuit and this Court. It is
19 about implementing an already-established remedial scheme in dozens of municipalities across the
20 island —a challenge that took considerable time for the Court to create and implement in
21 Watchtower Phase I. (See e.g. Case No. 04-1452, Docket Nos. 1083 & 1118 (Court monitoring
22 enforcement and compliance by Defendant Municipalities)).

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1 The scheme’s implementation was not all in a day’s work; instead, it took months to get a
2 majority of the Municipal Defendants in compliance. The remedial scheme has indeed worked
3 effectively, but success did not occur overnight. As the Plaintiffs well know, a municipality has to
4 enact an action plan, and enforce the same, opening gates to non-complying urbanizations.
5 Granted, in Watchtower Phase I the Court did impose strict deadlines, yet attaining compliance
6 was an uphill battle. Eventually, sanctions were imposed for each day of non-compliance. Id. at
7 1264. In fashioning the remedial scheme, the undersigned conducted an in-depth study and
8 ultimately crafted a scheme that met Plaintiffs’ requests and guaranteed their constitutional rights.
9 In doing so, the Court weighed in on lists of each municipalities’ gated communities, both manned
10 and unmanned; ordered Municipalities to direct and ensure all manned communities grant
11 Jehovah’s Witnesses unfettered access; ordered the Defendant Municipalities to direct and ensure
12 all unmanned communities provide beepers and keys to Jehovah’s Witnesses; and most
13 importantly, afforded Defendant Municipalities adequate opportunity to educate its citizenry.

14 In addition, a significant amount of time and effort was devoted to handling issues that
15 arose with some municipalities and urbanizations that were hesitant to comply with the Court’s
16 orders.² Mindful of the public opposition triggered by the case, and in an effort to educate the
17 public on the subject of Plaintiffs’ constitutional rights, the undersigned embarked on a more
18 informative approach when issuing its Orders. In an Order dated May 6, 2013, the undersigned
19 outlined the procedural history and applicable law regarding the rights of Jehovah’s Witnesses to
20 access public streets in Puerto Rico. (See Case No. 04-1452, Docket No. 1074.) In said Order, the
21 Court addressed many of the public’s concerns regarding the Court’s Orders granting the

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23 ² Even at the present, the Court is still addressing issues in Watchtower Phase I. Next Wednesday the
24 undersigned, while sitting in Ponce, will hear summary judgment oral arguments as to whether the streets of
Estancias del Golf Club in the Municipality of Ponce are public or wholly private. See Case No. 04-1452,
Docket No. 1692.

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1 Witnesses public access to gated communities. The Court gave a detailed explanation of
2 Jehovah's Witnesses' right to free speech and free exercise of religion under the First Amendment.
3 Id. The Court also addressed concerns of public safety.

4 The Court has not granted unfettered access to violent criminals, nor should any
5 knowledgeable or reputable person spread such fear. The gates were erected as a
6 means to reduce crime on the island. Since the enactment of the Control Access
7 Law, crime has not substantially abated on the island. The Court is not aware of a
8 single instance in which any Jehovah's Witness has been charged or convicted of a
9 crime while expressing his or her religious beliefs. The Jehovah's Witnesses enjoy
10 the same First Amendment rights as all residents of Puerto Rico. If access to public
streets can be denied to them, then access can be denied to anyone. For example, an
aspiring politician will be barred from going door-to-door seeking endorsements.
Likewise, the press could also be prevented from entering a gated community to
cover the reactions of residents to a court ruling, as that in this case. More so,
during Easter, Catholics could similarly be barred from participating in a Via Crucis
on public streets.

11 Watchtower, 2013 WL 1908307, at *3 (D.P.R. May 6, 2013). The Court also noted that "the
12 Commonwealth of Puerto Rico, as part of the greatest Democracy of our time, guarantees every
13 one of its citizens' religious, political, social and other precious freedoms. Even today, many
14 nations of the world inadequately protect, or worse, fail to protect, these rights that we often take
15 for granted." Id. at 4. The Court went further, reflecting on the public disagreement caused by the
16 Watchtower litigation and reminded and cautioned that this historical litigation "demonstrates this
17 Nation's deep history of protecting civil liberties. Any antipathy by individual residents of gated
18 communities towards Jehovah's Witnesses *or members of any other religious faith should yield to*
19 *common sense and respect for the Rule of Law, product of the United States and Puerto Rico*
20 *Constitutions."* Id. (emphasis in original).

21 As in Watchtower Phase I, the parties, individual urbanizations and the Court will have to
22 focus on multiple non-compliance issues, requests for contempt and other actions. However, the
23 initial Order the Court issues today with specific directives, will avoid confusion by allowing the
24 parties to focus on the issues relevant for permanent injunctive relief, and separating those

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1 municipalities that are willing to comply with the law from those who are not willing or want to
2 exercise their right to litigate the matter further. It is the Court's perception that in the case of the
3 Defendant Municipalities in Watchtower Phase I, time to carefully implement all Court orders has
4 been Plaintiffs' greatest ally. Religious intolerance has subdued via the use of the federal court.
5 The public has realized that, like every citizen, Jehovah's Witnesses enjoy the same constitutional
6 rights, and the Witnesses enjoy their door-to-door apostolate. When a given urbanization does not
7 comply, the federal court does not hesitate to give the parties their day in Court.

8 As in Brown v. Board of Education, Plaintiffs' First Amendment rights to free speech and
9 free exercise of religion shall be afforded with "all deliberate speed." 349 U.S. 294, 301 (1955).
10 The Court intends to address all matters accordingly. But all deliberate speed requires this Court
11 to implement a constitutional remedial scheme in the most effective manner, not simply in the
12 quickest manner, which may later prove futile.

13 By weighting all the factors described above, the Court finds that Plaintiffs' TRO request is
14 not the appropriate vehicle to implement such a comprehensive remedial scheme as this matter
15 warrants, as implemented in Watchtower Phase I. Similarly, issuing a preliminary injunction
16 within such a brief period will, in the Court's experience, work against the implementation of such
17 a scheme. See Bl(a)ck Tea Soc'y, 378 F.3d at 15 (affirming the District Court's denial of TRO
18 request for injunctive relief on First Amendment protected speech ground and recognizing
19 "impracticability of eleventh-hour injunctive relief."). Consequently, Plaintiffs' TRO as requested
20 is denied.

21 Notwithstanding the above, because actionable and irreparable harm is imminent given the
22 Witnesses' upcoming holiday, the Court hereby grants Plaintiffs a TRO in a limited fashion,
23 specifically tailored to address and tend to their protected religious-speech, while at the same time
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1 guaranteeing the Municipal Defendants' right to due process. The Court, in an effort of balancing
2 the parties' respective rights, will order the Defendant Municipalities to grant Jehovah's Witnesses
3 access to the urbanizations listed in Plaintiffs' request for TRO. This access will be granted for
4 one day. Municipal police and/or representative(s) of each municipal government shall be
5 physically present at the entrance of each gated community to ensure Jehovah's Witnesses are
6 allowed access and can engage in their door-to-door ministry. In the alternative, the municipal
7 personnel may, prior to February 27, 2016, inform in person each of the named gated communities
8 that on said date and times they must allow the entry of Jehovah's Witnesses.

9 For the reasons explained above, Plaintiffs' request for TRO is hereby **GRANTED in part**
10 **and DENIED in part** as follows:

11 **III. Temporary Restraining Order and Directives**

12 Since it appears that Plaintiffs will suffer immediate and irreparable injury before this
13 litigation moves forward, the Court hereby issues the following Temporary Restraining Order and
14 thus **ORDERS** that:

- 15 1. For the purpose of safeguarding Jehovah's Witnesses' protected speech, pending the
16 preliminary injunction and until further orders of the Court, Defendant
17 Municipalities, their officers and any other persons in active concert and
18 participation with them are hereby ordered to provide and ensure that Jehovah's
19 Witnesses **have access to the controlled access urbanizations listed below, on**
20 **Saturday, February 27, 2016 from 8:00A.M. to 5:00P.M.** Municipal police and/or
21 representative(s) of each municipal government shall be physically present at the
22 entrance of their gated communities to ensure Jehovah's Witnesses are allowed
23 access and can engage in their door-to-door ministry. In the alternative, the
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1 municipal personnel may, prior to February 27, 2016, inform in person each of the
2 named gated communities that on said date and times they must allow the entry of
3 Jehovah's Witnesses.³

4 2. The instant TRO is granted as to the following gated communities (listed by
5 Municipality):

6 1) Aguada: Las Casonas (also known as Las Casonas de Aguada), and Las
7 Villas Sotomayor (also known as Villas de Sotomayor).

8 2) Aguas Buenas: Brisas de Palmasolas (also known as Brisas de Palma Sola or
9 Palmasola) and Estancias del Río.

10 3) Añasco: Hacienda Libertad, Los Arboles and Paseo del Valle.

11 4) Arecibo: Brisas del Mar, Calle Flamingo, Ciudad Atlantis, Colinas de
12 Palmarito, Costas del Mar, Estancias Balseiro (also known as Balseiro),
13 Haciendas del Mar, Haciendas Monte Verde, Jardines de Betania, Jardines
14 del Junco, Los Corales, Los Pinos II, Paseo de los Ángeles, Paseo Esmeralda
15 (also known as Paseo La Esmeralda), Paseo Los Húcares, Paseo Los Robles,
16 Paseos de la Reina, Reparto Diocesano, Valle Escondido, Villa Lucía, Villa
17 Mena, Villas del Remanso, and Vistamar Estates I & II (also known as
18 Vistamar Estates).

19 5) Barceloneta: Brisas del Monte (also known as Monte Brisas) and Cimarrona
20 Court.

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23 ³ As a cautionary note, the Court reminds all parties that the present order only applies to the named
24 Defendant Municipalities in Case No. 16-1207. The permanent injunctive relief afforded to Plaintiffs in Case
No. 04-1452 is neither altered nor affected by the Court's ruling. As of this moment, the cases have not been
consolidated therefore they are still separate litigations.

- 1 6) Cabo Rojo: Alturas del Mar, Bello Horizonte, Boquerón Country Club,
2 Campo Mar, Estancias de Monte Grande, Estancias de Plan Bonito, Estancias
3 Esperidiona y Los Prados (also known as Estancias Esperidiona or Estancias
4 de Esperidiona), Estancias Reales de Cabo Rojo (also known as Estancias
5 Reales), Hacienda Bonita, Hacienda de la Baume (also known as Hacienda
6 de Baume), Haciendas de Cabo Rojo, Joyuda Coast, La Nereidas, Mansiones
7 de Cabo Rojo, Mirador del Sol (also known as Mirador del Sol Sector
8 Parabuayon), Monika del Mar, Paraíso de Boquerón, Paseo del Duque,
9 Paseos de Plan Bonito, Puerta del Combate (also known as Puertas del
10 Combate Estates), Quintas de Cabo Rojo, Quintas de Miradero de Cabo Rojo
11 (also known as Quintas de Miradero), Reparto Oliveras, Terrazas de
12 Boquerón, Veredas del Mar, Villas de Plan Bonito, and Mansiones.
- 13 7) Camuy: Altamonte (also known as Alto Monte), Alturas del Maestro,
14 Haciendas Camuy (also known as Haciendas de Camuy), Paseo Las Flores,
15 and Hacienda La Sabana.
- 16 8) Canóvanas: Estancias del Río Canóvanas (also known as Estancias del Río),
17 Haciendas de Canóvanas (also known as Hacienda de Canóvanas), Las
18 Magas, Las Quintas de Altamira Canóvanas (also known as Las Quintas de
19 Altamira), Mansiones del Tesoro, and Las Haciendas (also known as Las
20 Haciendas de Canóvanas).
- 21 9) Carolina: Colinitas de Cacao, Los Arboles, Quintas de Campeche, Remanso
22 Taino, Villas del Sol and Hacienda Real.
- 23 10) Cataño: Mansiones del Parque (also known as Mansiones).
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- 1 11) Cayey: Colinas de Cayey, Colinas View, El Remanso, Hacienda Vistas del
2 Plata, and Vista Sur Planation & Country Club.
- 3 12) Cidra: Brisas de Monticello, Haciendas de Treasure Island, Treasure Island
4 Gardens (also known as Jardines de Treasure Island), and Bosque Real.
- 5 13) Coamo: Hacienda Miraflores de Coamo (also known as Miraflores), La
6 Arboleda, Provincias del Río I (also known as Provincias I), and Provincias
7 del Río II (also known as Provincias II).
- 8 14) Corozal: Los Próceres de Corozal (also known as Los Próceres), Vistas del
9 Río I, Vistas del Río II, and Vistas del Río III.
- 10 15) Fajardo: Mansiones Punta del Este (also known as Mansiones del Este).
- 11 16) Florida: Altos de Florida, Haciendas de Florida, and Reparto Diana.
- 12 17) Guánica: Playa del Sur.
- 13 18) Guayama: Chalets de Brisas del Mar, Hacienda Los Recreos, Reparto La
14 Sabana (also known as La Sabana), San Martín (also known as Villas de San
15 Martín), Vistamar (also known as Vista Mar), and Camino de la Princesa.
- 16 19) Hatillo: Camino Las Palmas, Colinas de Hatillo, Costa Norte, Estancias de
17 Carrizales, Estancias de Palma Gorda (also known as Estancias Palma
18 Gorda), Hillside Estates, Mansiones San Antonio, Montemar, Monte Verde,
19 Paseo Las Palmas, Paso del Campo (also known as Paseo del Campo), Royal
20 View, Valle Verde, Verde Luz, and Villa Gertrudis.
- 21 20) Hormigueros: Mansiones La Monserrate (also known as Mansion de
22 Monserrate), Paseo La Ceiba (also known as La Ceiba), Paseo Los
23 Peregrinos, and Haciendas Constancia.
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1 21) Humacao: El Retiro.

2 22) Isabela: Llanos de Isabela, Mirador del Cielo, Reparto Durán (also known as
3 Rpto. Durán), Sol y Mar, Villas de España (also known as Villas España),
4 and Villas de Karen (also known as Villas Karen).

5 23) Juana Díaz: Estancias del Río, Hacienda de Casa Blanca, Lago Horizonte
6 (also known as Lago Horizonte I), Las Quintas (also known as Las Quintas
7 de Jacaguas), Valle Esmeralda, Colinas del Prado and Villas del Prado.

8 24) Loíza: Loíza Estates.

9 25) Luquillo: Hacienda Paloma II, Luquillo Hills, River Edge Hills, Paisaje del
10 Lago and Paisaje del Río.

11 26) Manatí: Estancias de Santa Maria, Estancias de Valle Verde, Los Rosales I
12 (also known as Los Rosales 1), Los Rosales II (also known as Los Rosales
13 2), Quintas Mariana, Reparto Rosello, Santa Teresa, Valle Encantado, Villa
14 Forestal, Estancias de Manatí and Porto Fino.

15 27) Mayagüez: Colinas de Alturas de Mayagüez (also known as Colinas de
16 Alturas), Cumbres de Miradero (also known as Cumbre Miradero or Parque
17 Forestal-Cumbres de Miradero), Estancias de San Benito (also known as San
18 Benito), Jardines de Guanajibo, Mansiones de España, Parque La Ceiba (also
19 known as Parque de la Ceiba), Quintas de Santa María (also known as
20 Quintas de Santa María-Extensión), Senderos del Valle, Sonsire Chalets (also
21 known as Sunsire Chalets), Villa Capitán (also known as Villa del Capitán),
22 Villa Sonsire (also known as Villa Sunsire or Balcones de Villa Sonsire),
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1 Vista del Mar, and Quintas de Monte Río Mayagüez (also known as Quintas
2 de Monte Río).

3 28) Naguabo: Hacienda Grande de Naguabo (also known as Hacienda Grande)
4 and Jardín del Este (also known as Jardines del Este).

5 29) Patillas: Solymar Patillas (also known as Solimar).

6 30) Río Grande: El Verde Homes, Estancias del Verde, Hacienda Jiménez,
7 Hacienda Las Garzas Río Grande (also known as Hacienda Las Garzas),
8 Lindo Mar, Montecillo, Villa Cambalache II-A (also known as Villas de
9 Cambalache II), Villas del Mar Coco Beach (also known as Coco Beach),
10 and Villas del Rey (also known as Hacienda del Rey).

11 31) Salinas: Mansiones de Salinas, Marbella, and Solana.

12 32) San Germán: Garden Hills.

13 33) San Lorenzo: Mansiones de Monte Sereno (also known as Monte Sereno),
14 Paseo de las Flores (also known as Paseo las Flores), Portal del Sol, and
15 Villas del Hato.

16 34) Toa Alta: Alturas de Montecasino, Brisas del Lago, Estancias de San
17 Miguel, Hacienda El Pilar, Hacienda Paola, Hacienda Vista Real, Las Villas
18 (also known as Villas), Preciosas Vistas del Lago, Quintas de Santa Ana,
19 Reparto Valle Verde y Quintas de San Ramón, Terrazas del Toa y La
20 Providencia, Terrazas del Toa III (also known as La Tercera Seccion de
21 Terrazas del Toa y la La Providencia), Toa Linda, Valle del Paraíso, Veredas
22 del Río I, Veredas del Río II, Villas Norel, Woodbridge Park, and Campos
23 del Toa.
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1 35) Toa Baja: Alturas de Covadonga, Alturas Hacienda Dorada, Extensión
2 Lagos de Plata (also known as Lagos de Plata), Mansiones del Lago, and
3 Pabellones.

4 36) Vega Alta: Alturas de Cerro Gordo I y II, Alturas de Cerro Gordo III y IV,
5 Coconut Court, Estancias de San Nicolás, Golden Village, Isomar, Ocean
6 Breeze, Palmas de Cerrogordo (also known as Las Palmas de Cerro Gordo),
7 Residencias del Palmar, The Clusters, and Grand Palm II (also known as also
8 known as Grand Palm).

9 37) Villalba: Estancias de Santa Rosa.

10 38) Yabucoa: Valles de Yabucoa.

- 11 3. Because this case involves Plaintiffs’ First Amendment rights and enforcement of
12 orders that have already been adjudicated in Plaintiffs’ favor, the Court in its
13 discretion waives the posting of a bond. See Crowley v. Local No. 82, Furniture &
14 Piano Moving, 679 F.2d 978, 1000 (1st Cir. 1982), rev’d on other grounds, 467 U.S.
15 526 (1984) (First Circuit recognition that district court has discretion to waive
16 security bond requirement in “suits to enforce important federal rights or public
17 interests.”).
- 18 4. Pursuant to Federal Rule of Civil Procedure 65(b), on two days’ notice to Plaintiffs,
19 Defendants may appear and request the dissolution or modification of this TRO.
- 20 5. This TRO will expire on **Saturday, February 27, 2016, 5:01 P.M.**, unless within
21 such time this Order is extended for good cause and/or Defendants consent to an
22 extension.
23
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1 6. Plaintiffs shall serve personally upon all Defendants no later than **Friday, February**
2 **12, 2016, 5:00 P.M.** a copy of their Verified Motion for a Temporary Restraining
3 Order and Preliminary Injunction, as well as the instant Order. Plaintiffs shall
4 thereafter notify the Court via informative motion.

5 **IV. Initial Directives**

6 The named Defendant-Municipalities in this case shall, on or before **March 15, 2016,**
7 **SHOW CAUSE** as to why they should not be ordered to comply with the constitutional remedy
8 fashioned by the United States Court of Appeals for the First Circuit in Watchtower Bible and
9 Tract Soc’y of New York v. Sagardía de Jesús, et al., 634 F.3d 3 (1st Cir. 2011) (finding Puerto
10 Rico’s control access law constitutional as applied and recognizing that Jehovah’s witnesses are
11 allowed to enter urbanizations to engage in constitutionally protected activity), reh’g denied, 638
12 F.3d 8, cert. denied, 132 S. Ct. 549 (2011); Watchtower Bible and Tract Soc’y of New York v.
13 Mun. of San Juan, 773 F.3d 1 (1st Cir. 2014) (affirming the District Court’s remedial scheme
14 crafted on remand) cert. denied, 135 S. Ct. 2395 (2015), and the District Court in Case No. 04-145
15 (Docket Nos. 710 (granting declaratory injunctive relief on remand); 718 (entering judgment); 904
16 (reiterating First Circuit’s recognition of Plaintiffs’ constitutionally protected right to engage in
17 door-to-door ministry); 978 (amended partial judgment as to unmanned urbanizations); 1074
18 (Order summarizing the law and court Orders regarding the right of Jehovah’s Witnesses to access
19 public streets in gated communities in Puerto Rico, 2013 WL 1908307 (D.P.R. May 6, 2013));
20 1173 (Certification of private roads issue to Puerto Rico Supreme Court, 2013 WL 2554879
21 (D.P.R. 2013)); 1264 (imposing sanctions against Municipalities for non-compliance); 1478
22 (second amended partial judgment on remand)). These shall be collectively referred to as
23 “Watchtower Phase I Directives.”
24

1 **Plaintiffs are hereby ordered to serve all Defendants with process, along with copy of**
2 **this Order, as well as the Watchtower Phase I Directives no later than Friday, February 12,**
3 **2016.** The Municipal Defendants, on or before March 15, 2016, shall indicate to the Court that
4 they concede to and accept that Watchtower Phase I Directives shall apply to them, or that they
5 will proceed to litigate the case. The rulings of the First Circuit and this Court pertain to one legal
6 issue, namely the Jehovah’s Witnesses’ right to engage in activity protected by the First
7 Amendment in public streets located within controlled access communities throughout the various
8 municipalities. The First Circuit’s mandate constitutes the applicable constitutional federal “law of
9 the land.” It is the controlling law in the District of Puerto Rico, thus, under the doctrine of *stare*
10 *decisis*, the controlling law must be applied, absent convincing argument to the contrary – quite
11 possibly a herculean task.

12 On one hand, the Municipalities that agree with the federal appellate and District Court
13 mandates shall be afforded a fair opportunity for constitutional compliance as were the Defendant
14 Municipalities in Watchtower Phase I. They will be given time to confer with Plaintiffs, making
15 reasonable effort to reach agreements as to the terms of each municipality’s action plan. There is
16 no reason why this cannot be accomplished within reasonable time. This will also avoid
17 imposition of any attorney’s fees, which, as the Municipalities in Watchtower Phase I, can affect
18 their respective coffers. Any issues particular to a given urbanization, shall be addressed
19 individually. Defendant Municipalities that are in agreement shall so inform the Court on or
20 before **March 15, 2016.**

21 On the other hand, Municipalities that do not agree with the federal appellate and District
22 Court mandates and directives shall answer the complaint and/or move to dismiss the same on or
23 before **March 15, 2016.**

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1 No extensions to the above **March 15, 2016** deadline will be allowed. Any Municipal
2 Defendant that does not respond as to either alternative will be considered as having conceded to
3 the first alternative and, accordingly preliminary injunctive relief will issue. Compliance with
4 these deadlines and directives is imperative, given that now dozens of Municipalities are involved,
5 as well as the necessity of Plaintiffs to immediately exercise their First Amendment right to
6 religious expression.

7 The Court wants to make one thing very clear: the Plaintiffs' request for TRO has not been
8 granted only in part because it lacks merit. To the contrary, the Court is mindful of Plaintiffs'
9 likelihood of success. However, the Court understands that, by virtue of the present directives,
10 municipalities that want to voluntarily come into compliance with the law of the land can readily
11 do so, and those that choose to litigate the matter may. In other words, giving the Municipal
12 Defendants thirty days to comply will best serve the public interest by allowing for a uniform
13 remedy for all. It will also allow the Court to best use its limited time and resources, given the
14 extremely high volume of criminal cases on its docket. The Court intends to eventually
15 consolidate this case with Watchtower I. The order shall issue at an appropriate moment.

16 The Court further notes that federal court intervention, now involving a majority of the
17 island's municipalities, could be significantly reduced or even avoided, should the
18 Commonwealth's Legislature enact a comprehensive piece of law addressing the issues resolved
19 by the First Circuit and District Court in Watchtower Phase I. Such legislation would put an end to
20 this litigation, which ultimately is shouldered by tax payers.

21 In addition, Counsel Paul Polidoro and Keturah A. Dunne's requests to appear *pro hac vice*
22 at Docket Nos. 7 & 8, respectively, are hereby **GRANTED**. Because the Court will eventually
23 consolidate both cases, and because Mr. Polidoro is already appearing *pro hac vice* in Watchtower
24

1 I, he will not be required to pay the mandatory fee for this case, which is *de facto* an amended
2 complaint adding additional defendants of Plaintiffs' complaint in Watchtower I. The Clerk of
3 Court shall return any such fee paid by Mr. Polidoro in the above-captioned case.

4 The Plaintiffs, if not satisfied with this order, may seek reconsideration and propose
5 realistic alternatives. However, the thirty days period given to Defendants, plus an additional
6 period of sixty days to subsequently implement the Watchtower I scheme will carry the day for all.

7 **V. Conclusion**

8 Accordingly, Plaintiffs' Request for TRO at Docket No. 2 is **GRANTED in part and**
9 **DENIED in part**, as detailed in this Order. Plaintiffs' Request for Preliminary Injunction is
10 **HELD IN ABEYANCE** until **March 15, 2016**, whereupon Defendant Municipalities must
11 **SHOW CAUSE**.

12 **SO ORDERED.**

13 In San Juan, Puerto Rico this 10th day of February, 2016.

14 *s/ Gustavo A. Gelpí*

15 GUSTAVO A. GELPI

16 United States District Judge