

# Maryland church prohibited from developing its own land

by Randy Bright <http://www.tulsabeacon.com/?p=2839#more-2839>

Bethel World Outreach Ministries, a Global Mission Church megachurch of 2,000 located in Silver Springs, Maryland, lost its case last March in a state appellate court in its attempt to force Montgomery County to amend its water and sewer plan to allow them to develop its property.

The church currently resides in Silver Springs in a 450- seat capacity facility. Their new 119.37 acre property is situated at the border of Montgomery and Frederick counties, near Washington, DC. The majority of the property is in Frederick County, but the entrance to the property is in Germantown, which is located in Montgomery County.

The property is also located in an area that has been designated as an Agricultural Reserve.

The church purchased the property in 2004, making plans to construct a 138,000 square foot facility that would include a 3,000 seat sanctuary, a three-story school building and a dining hall.

In 2005, the church made applications to Montgomery County for water and sewer services, but the county rejected the applications. The Court of Special Appeals upheld the decision made by the Montgomery County Council.

There was no city government involved in the case because Germantown is not an incorporated city.

The church first filed a Petition for Administrative Mandamus with the Montgomery County Circuit Court. When the court dismissed the case, they amended the petition. In that case, the court reversed its decision, stating that the council had acted administratively, but noted that there was substantial evidence to support the county's earlier denial of the applications.

The judge in the Court of Appeals upheld the original denial made by the County Council, saying that the church's request was "treated as a comprehensive land use planning issue even though it involved only an incremental change to the plan." The judge also indicated that the church was not being treated differently than other applicants at the time, and that the church's rights were not being violated under the Religious Land Use and Institutionalized Persons Act (RLUIPA).

In the decision, the judge wrote, "Bethel cites no evidence in the record, nor have we located any, demonstrating that the Council's action entirely prohibited Bethel from building on its property or caused Bethel to suffer financial loss, or that Bethel's congregation cannot adhere to the precepts of their religions in their existing facilities. The bald assertion that Bethel's existing facilities are overcrowded are simply not enough to support its substantial burden claim."

Substantial burden is one of the tests in RLUIPA, which would show that a church was being unreasonably prevented from exercising their religious practices, including use of their property.

Despite the disapproval of the water and sewer applications, Montgomery County apparently did approve access to the property. But, the church also faces other problems with the Frederick County Planning Commission. It has put its decision on hold, saying that there are questions regarding the size of the church and its plans, as well as its compatibility with the area's rural character.

One report indicated that an environmental group was opposed to the church's plans, and have voiced opposition to a county executive who is in favor of approving the project. In a letter to the executive, one environmentalist complained that the megachurch would affect the "viewshed" of local residents.

Other statements in a blog said that the church should "respect God's creation," that their "environmental footprint is too large in this age of trying to have smart green policy," and that it was a project that "is so detrimental to the rural landscape of Montgomery County." Apparently when rural land gets scarce, people get a bit testy about protecting it, even if it means protesting against a church.

This is a project that is problematic from both sides, but primarily from the standpoint that rules and regulations can be non-conducive to a church's desire to development their own property as they see fit in regard to property rights.

While this particular case is far too complicated to judge from cursory reports, it does seem to provide anecdotal evidence that city planners should think ahead in how such cases would be handled in their city. I hope that the planners for the City of Tulsa will consider cases like this, and look for ways to avoid similar situations from developing here.

©2009 Randy W. Bright

Randy W. Bright, AIA, NCARB, is an architect who specializes in church and church-related projects. You may contact him at 918-664-7957, [rwbrightchurcharch@sbcglobal.net](mailto:rwbrightchurcharch@sbcglobal.net) or [www.churcharchitect.net](http://www.churcharchitect.net).

This entry was posted on Thursday, September 10th, 2009 and is filed under [Columns](#).