

Hope Rising Community Church wins a small victory

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By [Randy W. Bright](#)

Hope Rising Community Church has won a small victory in a court battle over their use of a warehouse in a light industrial district of Penn Hills, Pennsylvania.

The church is relatively new. First organized in 2013, it signed a 3-year lease for the warehouse to use as a place of worship. According to reports, they received approval from the city to make improvements to the property, and received a final inspection and occupancy permit after the improvements were completed in September of 2014.

But in January 2015, the city of Penn Hills imposed an order to cease and desist the use of the property against the church, claiming that the church had misled the city as to its use. It is now prohibiting worship services on the property, but is still allowing the church to operate a food bank, to provide individual counseling, and to distribute clothing.

As a result, the church has been holding worship services in other locations, which has been detrimental to church attendance.

The church chose the warehouse location after searching for property in residential zones which, in Penn Hills, is the only zone that churches are allowed, and then only by conditional permit. In my research, I found no explanation as to why the church was granted a permit in the light industrial area in the first place.

Hope Rising filed a lawsuit against the city in hopes of receiving an injunction against the city to prevent it from enforcing their cease and desist order.

According to a posting on the rliupa-defense.com website, "Given Penn Hill's enforcement notice and variance denial, Hope Rising claims it is substantially burdened in violation of RLUIPA. Hope Rising also pleads a facial RLUIPA Equal Terms violation. According to the complaint, churches and religious assemblies are allowed only as conditional uses within residential districts. Other non-religious assemblies and institutions such as lodges, clubs, meeting halls, educational institutions, planned industrial developments, parks and playgrounds are allowed by right in other zones within Penn Hills."

The suit also claims that the city violated the Unreasonable Limitations provision of RLUIPA, as well as those found in the U.S. Constitution and Pennsylvania Religious Freedom Protection Act.

According to a post on the same website, a U.S. magistrate "issued a report and recommendation to allow the church to use certain property for religious assembly and worship" because the church "is likely to succeed on its RLUIPA Equal Terms claim."

According to a post on the Law of the Land website, the Federal District Court of Pennsylvania granted the church a preliminary injunction on their RLUIPA Equal Terms claim, but that "the

court found that limiting churches to a conditional use in residential districts did not unreasonably limit religious assembly because this restriction did not foreclose the church's right to assemble. Accordingly, it held that the church was unlikely to succeed on the merits of its Unreasonable Limitations claim under RLUIPA, and recommended that the church's motion for preliminary injunction on this claim be denied."

This decision seems odd given that there are those in the planning and legal world are stern opponents to allowing churches in residential neighborhoods.

This also is a demonstration of what I have believed would become a trend in city planning. Churches in retail areas? No, that would erode the sales tax base. Churches in industrial areas? No, that would diminish the tax base as well. Churches in residential areas? Of course not, the noise and traffic they generate is most inappropriate for neighborhood environments. Churches at the fringes of communities?

Well, no, that land is reserved for nature or planned community developments.

Where will churches be allowed if this trend continues?

Not long ago I heard someone on a talk show speak about a particular church that had won a RLUIPA battle in court. The point of his discussion was to say that now other cities wouldn't dare attempt to violate the rights of a church after such a decisive loss.

Hope Rising only achieved victory on part of its court battle, and the truth is that the likelihood of winning or losing cases like theirs is highly dependent upon the judge's attitude toward churches and their rights.

As I have said many times before, churches are in the fight for their lives - to stay a part of their own communities - and most won't even know it until it is too late. That is why all churches need to be diligent in knowing what their own communities are planning and doing what is necessary to maintain their presences. The RLUIPA law, it seems, doesn't always work.



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