

Sometimes churches have to fight in their communities

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Two cases from the Law of the Land website caught my attention this week because they pertain to the series of articles I have been writing about the role of churches in our communities. The first case involves a federal court case that addressed outright discrimination against a church by a city.

The article on the website referred to a USDOJ Religious Freedom Focus Newsletter that stated that “A federal court in New York entered a consent decree on November 23 resolving allegations by the United States that the City of Port Jervis, New York, violated a church’s rights under RLUIPA when it changed its zoning code to ban places of worship in two zoning districts where they were previously allowed as of right. The order resolves a lawsuit brought by the United States in the U.S. District Court for the Southern District of New York after the Goodwill Evangelical Presbyterian Church entered into a contract to purchase property within one of those zones to use as a church.”

The article describes the church as a growing congregation based in Montgomery, New York, that had opened satellite congregations in New Paltz and Port Jervis. In Port Jervis, the congregation had been using a rented space temporarily in anticipation of permanent location, but had found a location in downtown Port Jervis in a district that permitted places of worship by right.

Typically, zoning codes designate uses by “right” in certain districts because those districts are considered conducive to the use. For example, single-family homes are allowed in single-family home zones, and do not require any special zoning actions to allow the building permit.

In this case, churches were allowed in the Central Business District zone in which the property was located.

The article described what happened next: “As the Goodwill Church prepared to close on the property in November 2015, the city passed a law removing places of worship as permitted used(sic) in the Central Business District, as well as the city’s Service Commercial District. The law, the United States alleged, was passed out of concern that the presence of the Goodwill Church, or other churches, could discourage commercial development, including discouraging establishments serving liquor due to a state law regulating the proximity of liquor serving establishments to places of worship and schools.”

The United States prevailed in the case resulting in a consent decree that required it to “amend its zoning laws and regulations to repeal the ban on the use of property for places of worship in the two zoning districts at issue and to treat religious assemblies or institutions equally with

nonreligious assemblies or institutions.” The basis of the consent decree was that the city had violated the church’s rights under RLUIPA.

The second case involves a church in New Albany, NY, in which a church attempted to establish a home for up to 14 homeless people on property it owned adjacent to the property on which its worship facilities were located.

At first, city officials told the church that it would need to request a variance, but in the subsequent application and appeals, the city’s Board of Zoning Appeals held that the “proposed use is consistent with mission and actions of a house of worship” and that “no additional zoning exemptions were necessary”.

Then someone sued to stop the church, requesting an annulment of the Board’s determination, which was granted by the Supreme Court. The case then went to the New York Appellate Court. Per the article, the “Appellate Division stated that a zoning board’s interpretation of a zoning law is afforded great deference and will only be disturbed if it is irrational, unreasonable, or where there is an issue of pure legal interpretation of the underlying zoning law. The court found that none of these reasons were present here and the Board’s determination should be upheld.

Furthermore, the court cited to prior decisions that held services to the homeless were judicially recognized as religious conduct and the acts of charity are an essential part of religious worship. The Court reversed the decision...and reinstated the decision of the Zoning Board of Appeals.” So, in one case we have a city that attempted to prohibit a church in their downtown area, and another that found no reason not to allow it, only to be challenged by a third party.

When churches try to maintain a presence in their community, resistance is becoming the norm, not the exception. Our Constitution and the rule of law make it possible to do so, though maybe not without a fight.



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