

# Minnesota church mess revolves around property rights

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Riverside Church of Big Lake has won a lawsuit and a settlement of \$1.29 million from the City of St. Michael, Minnesota, after a federal district court found that the city had violated its First Amendment rights by interfering with its purchase of a movie theater that it intended to use to expand its operations. The court also cited that the church's rights had been violated under the Religious Land Use and Institutionalized Persons Act (RLUIPA).

Riverside Church was begun in 1973, and in 2014 had planned to purchase the movie theater to use as a satellite location. As they began negotiations for the purchase, they also submitted an application to the city to revise a zoning ordinance to allow the use of the property as a place of worship. The theater had been vacant since 2009.

The city's planning commission made the recommendation to the city that they decline the church's application and the zoning revision due to problems with traffic and capacity of the theater that they claimed the church use would generate. Rather than act on the Planning Commission's recommendation, the city instead passed an ordinance that declared a moratorium of new assembly uses. It also adopted a separate ordinance that removed "theaters (not outdoor drive-ins) as a permitted use in B-1 and B-2 zoning districts.

At a later date, the city and Riverside came to an agreement that met the planning commission's concerns, which allowed the church to continue with negotiations to purchase the theater property. However, by the time this occurred, the owners of the theater had raised the price of the property above Riverside's budget. In addition, the theater owner also decided not to sell it, and to re-open the property as a theater.

When the purchase negotiations failed, the city published a statement on its website that Riverside had refused to agree to concessions it had requested regarding traffic and building capacity. However, the court found that the statement was false because the church had, in fact, agreed to the concessions.

In reviewing the case, the court found that the city's own 2015 study had recommended that places of worship be treated the same as theaters, but one report indicated that "the city...has held firm to the belief that the building needs to remain part of a commercially zoned area, as defined by the city's most recent Comprehensive Plan."

Planning Commissioner David Dayon was quoted to have said that, "I think what the public really wants is us to stick to the plan. This is a community that doesn't have a lot of space set aside for future commercial development. We do have an amount of land that would be suitable for building a church. In this case, that would be preferable, to me."

But apparently traffic and seating capacity weren't the only objections to Riverside's use of the theater property. A headline in northwrightcounty.today read "TIF District, Not City, Would Lose if St. Michael Theater Became Tax Exempt." The article stated that a school district would lose \$5,000 per year, and a TIF (tax increment financing) district would lose around \$79,000.

The federal court issued a "memorandum opinion and order" at the conclusion of the case, and it found that the delays and interference by the city with Riversides' negotiations with the owner of the theater had prevented the church from buying the property for \$2,273,000. By the time the church believed that they had reached an agreement with the city, the price had escalated to \$2,758,055. The judge in the case stated that the city could have issued a conditional use permit that would have allowed the church to complete purchase negotiations while traffic issues were addressed.

At some point, the City actually did issue the conditional use permit, but apparently not until it was too late.

Cases like these, as sad as they are, are not that uncommon. In my opinion, these conflicts originate from the mindset that communities should be able to regulate how property owners can use their property. In effect, government assumes ownership of private property when it dictates how a property can be used, and there have been a number of lawsuits that claim that this amounts to a "taking" of property, especially when it reduces property values, sometimes to nearly nothing.

But it also comes about when urban areas become more densely populated, increasingly by design, and as a result traffic issues do become legitimate concerns. However, churches should not be singled out in this regard. These are problems that amount to self-inflicted wounds when city planners try to squeeze in as much commerce as they can, and squeeze out churches or other non-profits. Both uses are highly valuable to a community's health and well-being.



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