

Good news and bad news for church/city relationships

by Randy Bright <http://www.tulsabeacon.com/?p=5064#more-5064>

There is both good news and bad news on the issue of discrimination against churches by cities. The bad news first.

It appears that the number of discrimination cases is escalating and cities are coming up with new and creative ways to prohibit churches from building or to even cause them to close their doors. It is as though there is an unwritten playbook being passed from city to city that shows how to evict a church.

Here are some examples of tactics that are being used.

When a church has a very old building that needs to be replaced but the city wants the property to be placed back on the tax rolls, it designates the building to be historic. This places restrictions on what the church can do in regard to economically renovating the building and gives the city the added ability to prevent the church from razing it. Without the funds to renovate and without the land needed to construct a new building, the church is left with few options. It eventually runs out of money and closes.

Another tactic is to create rules that are specific to churches, but not to other assembly uses. For example, a city could amend its zoning code to require that all churches within city limits must own at least three acres of land, under the presumption that the land is necessary for parking and traffic control.

That sounds reasonable until you realize that many new churches start out in small storefronts, small rented facilities, or even homes. It effectively prevents most new churches from starting without significant financial backing. It is also that case that when cities have used zoning codes that are designed to create dense development, there may be few three acre tracts of land left, and those that are available are cost prohibitive for a new church to purchase.

A more insidious method for putting a church out of business involves property taxes. If a county does not grant an exemption for property taxes to a church, even though the church has filed the proper application, and even though the county has no legal basis for denying the exemption, the county can eventually place a tax lien against the church's property. If the church is unable to pay the tax, the tax lien can be sold to a developer who can then legally foreclose on the property.

When all else fails, there is always outright deception and dishonesty. If a city needs the church's property for a civic project, it can legally and constitutionally take it using eminent domain. However, it must offer just compensation for the property, which can come in the form of monetary compensation and agreements to assist the church with relocation to suitable quarters. But once the property is taken and the church building is torn down, why feel compelled to keep

the agreement, especially if the church is not financially capable of enforcing the agreement? Another tactic is for a city to force a church to spend itself into oblivion by repeatedly delaying the approval of a permit, while at the same time rezoning the church's property to a zoning classification that does not allow churches, then eventually denying the permit because - surprise - their land is in a zone that doesn't allow churches.

Almost all churches need to be connected to a city water line, especially if the need to sprinkle a building requires significant water pressure and volume. A city can grant a building permit to a church contingent upon its connection to the city water line, but then refuse to grant a permit to extend the water line to the church property.

And if no other reason can be found to remove a church, how about trying some old-fashioned harassment tactics? Perhaps the church's neighbors call the police to complain that the music is too loud. Then they send the police in to turn down the noise, then confiscate the driver's licenses of the musicians and the pastor.

Now I readily admit that I'm being somewhat cynical, but the truth of the matter is that this week I have read about actual cases involving every example I've given. That was the bad news. Now for the good news.

In every single example, the churches are fighting back by filing lawsuits, and they are getting expert help from people who know how to win.

The ultimate solution, however, is not going to be found in the courts. As they say, no one really wins in a lawsuit except the lawyers and no good deed goes unpunished. Lawsuits rarely create goodwill.

The goal should be that cities should care about their churches, and churches should care about their cities. Cities that are successful in fostering a cooperative environment between the two are the ones who will achieve the community and prosperity that everyone wants.

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Randy W. Bright, AIA, NCARB, is an architect who specializes in church and church-related projects. You may contact him at 918-582-3972, rwbrightchurcharch@sbcglobal.net or www.churcharchitect.net.

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