

# 170-year-old church being victimized by eminent domain

by Randy Bright <http://www.tulsabeacon.com/?p=5875>

When I do a master plan for a church, one of the things that I look for is the likelihood that a church could lose its property to eminent domain. But what happens to a church that has been in the same location for 170 years?

That is the plight of Emmanuel Episcopal Church in Kempsville (Virginia Beach), Virginia. The city is taking part of its property for a street realignment, but the taking is leaving the church with little room to grow and circumstances that could eventually bring about its demise.

Emmanuel has a long history in the city. Established in 1843, its sanctuary was used as a field hospital during the Civil War, and today it provides numerous community services and supports an Anglican school in Belize.

In the 1990's, the church spent \$2 million in an expansion project that included a day school and refurbishment of its existing facilities.

Before it began the project, the church sought and got assurances from the city that part of their property would not be taken for a proposed street project. According to the church, they were told that the project had been abandoned and that there was no expectation of the project being revived in the future. With those assurances, the church built their new building and dedicated it in 2001.

Just two weeks after the dedication, they were told that the street project was going to take place and that part of their property was going to be taken using eminent domain.

Though the portion of the property that is being taken appears to be only small slice off of one corner, the impact of the taking is devastating.

The new six-lane street will now be only 70 feet away from the entrance to the new day school, creating a hazard for the children, and there have been no plans to provide fencing or barricades for protection. The play area for the day school has been lost. The access road to the front of the historical building is gone, leaving the only way to access the property facing the back of the church, and part of their parking lot is gone.

Perhaps the most devastating consequence of the taking is that the church will have nowhere else to grow. Recognizing this, the city promised to give the church three small adjoining pieces of property and an \$852,000 settlement for the taken land to help compensate them for their losses, but before the new properties were given to the church, one of the most critical parcels was given to Walgreens instead.

The Rector of Emmanuel, the Rev. John Baldwin, said, “We’re a 170-year old church that’s an integral part of the Kempsville community. The city doesn’t understand. Emmanuel Episcopal Church is not a church that is just a church on Sundays. Our parking lot is full throughout the week.”

According to the deputy city manager, the city is working to “create a new, lively, special place in the heart of Kempsville that includes a healthy, thriving Emmanuel Episcopal Church.”

But the church sees it a different way. On their blog, it says, “Given the severe damage, we had every reason to believe that the city would be eager to make amends that would make the church whole again, as decency and the law would seem to require. Instead we have been met with 10 years of indifference and hardball tactics by City Attorney Mark Stiles.”

It continued, “Once again our trust had been betrayed” (by the city’s giving the property to Walgreens). “Church leaders refused to accept this. Settlement talks broke down and now we are headed to trial in October. Even as we prepare for trial, we remain open to a fair and just settlement, one that restores to the church that future that it had in 2001.”

A look at the site using Google Earth makes me think that, despite assurances to the contrary, the church never really could expect the road project to be cancelled. When Emmanuel was built in the 1800’s, the area was probably mostly countryside, but now it is a densely populated area, and the church property lies on an awkward curve.

The need for new streets or street widening projects are a legitimate use of eminent domain, and I didn’t get the impression from the articles I read about this case that the congregation is disputing that. The objection is to the manner in which they have been treated and the financial and operational losses that they will incur in order to benefit all citizens of Kempsville. With the little amount of land that they have available to them now, the only way for them to grow is up instead of out, which would probably be a prohibitively expensive proposition.

Furthermore, this case is another example of the unintended consequences of dense city growth. My hope for Emmanuel is that the city will see the value of preserving Emmanuel and settle with it fairly before it reaches the court.

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