



Direct Representation of Municipalities, Municipal Law, Zoning & Land Use Practice Groups

July 6, 2007

## DENIAL OF CHURCH'S REZONING REQUEST FOR APARTMENT BUILDING DOES NOT VIOLATE FEDERAL LAW

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The Michigan Supreme Court recently ruled that a Michigan municipality's denial of a church's request to rezone property for development of a church-owned apartment complex was proper.

On June 27, 2007, the Michigan Supreme Court reversed both the Jackson County Circuit Court and the Michigan Court of Appeals, holding that the Jackson City Council's decision to deny a request by Greater Bible Way Temple of Jackson to rezone property from single family residential to multiple family residential for construction of an apartment building did not violate the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA). *Greater Bible Way Temple of Jackson v City of Jackson*, \_\_\_ Mich \_\_\_ (2007).

In this case, Greater Bible Way Temple purchased property near the church, which was zoned single family residential and which was bordered by other single-family residential properties. The church requested that the city rezone the property for construction of an apartment building to "further the teachings of Jesus Christ" by providing housing and living assistance to the citizens of Jackson.

The Supreme Court provided numerous alternative bases for its ruling. First, the court held that the action taken by the city council in denying the rezoning request did not constitute an "individualized assessment" under RLUIPA.

Second, assuming that there was an "individualized assessment," the court stated that the building of an apartment complex does not constitute a "religious exercise" under RLUIPA. "Something does not become a 'religious exercise' just because it is done by a religious institution," the court stated in its ruling.

Third, assuming there was a "religious exercise," the court found that refusing to rezone real property did not "substantially burden" an exercise of religion. The court stated that "the city has not done anything to coerce plaintiff into acting contrary to its religious beliefs, and, thus, it has not substantially burdened plaintiff's exercise of religion."

Finally, the court found that even if the actions of the city did constitute a "substantial burden" of a "religious exercise," zoning is an action of the city in furtherance of a compelling governmental interest, and

constitutes the least restrictive means of accomplishing that purpose.

This decision is very good news for Michigan cities, which after the decision of the Michigan Court of Appeals in this case, began to wonder if there were any limits to the application of RLUIPA. There is a possibility that the decision could be appealed by the plaintiffs to the U.S. Supreme Court, and the period for such an appeal remains open.