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Brutalist Church: The City Loses A Round

The [years-long battle](#) over whether the District's historic preservation police can force a Christian Science church to [keep a ugly, cold, expensive home that it doesn't want](#) took a turn toward the church's side the other day, as a federal judge made clear his sympathy for the church's plight.

The Third Church of Christ, Scientist has taken the city to court in an effort to overturn the [unanimous ruling by the D.C. Historic Preservation Board landmarking the 1971 concrete bunker](#) that serves as a church on 16th Street NW, just north of the White House.

At a hearing last week, U.S. District Court Judge James Robertson displayed little patience for the city's insistence that the church has no right to determine the future of its own building. According to accounts from the courtroom by Advisory Neighborhood Commissioner Mike Silverstein and The Northwest Current weekly paper--I was not there--the judge tangled early and often with the city's lawyer, Assistant Attorney General Leah Taylor.

"Have you seen the church?" Robertson asked.

"Yes, your honor," the District's lawyer said.

"Been down there?"

"Yes, your honor."

"Gone inside?"

"No, your honor."

"Couldn't find the door, could you?" the judge quipped. One of the biggest gripes Christian Scientists have about their building is that its concrete face offers passers-by no clue where the entrance might be--hardly a welcoming and loving front for a place offering spiritual care.

The judge was not shy about stating his view of the situation church congregants face in a building they'd love to tear down and sell off so they can build themselves something more appropriate: "The building is practically unusable, the entrance is lousy, the place is cold and dark," Robertson said, summarizing the church's position.

He seemed highly skeptical of the city's argument that a religious organization's right to freedom of expression does not protect its building from demolition. "Arguing that historic landmarking posed no burden on the church blinks reality," the judge said. And he warned the District that he would not necessarily let himself be directed by a local court ruling that upheld the city's approach on landmarking church buildings.

"A violation of First Amendment rights is always ripe" material for a court to consider, Robertson said, a blow to the District's argument that preservation decisions should be made purely on architectural and historical merit--not the preferences or freedoms of a church or other

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Robertson seemed eager for the parties to settle the case; that is, for the District government to decide that the demolition may proceed. He told the city's lawyer he has no intention of seeing the court case through and writing "a 100-page decision unless I have to."

That will depend on whether the mayor's agent on historic preservation cases--in this matter, the D.C. planning director, Harriet Tregoning--rules, as expected, by mid-May on the church's request for a permit to raze its building. Robertson called her ruling "overdue."

Robertson denied the city's motion to dismiss the church's lawsuit. He also noted that the continuing burden of running a leaky, drafty building that is unsuitable to church services is weighing heavily on the congregation, which has had to lay off its organist to make ends meet.

It's long past time for the church's members to win the right to do as they wish with a building they believe is a financial burden, a spiritual hindrance, and an aesthetic blight.

Continue the conversation on Potomac Confidential, my weekly discussion show, here on the big web site--this week at a special day and time, Wednesday at 11 a.m. (The show returns to its regular Thursday noon time slot next week.)

By Marc Fisher | April 13, 2009; 7:48 AM ET | Category: [Historic preservation](#) . [The District](#)

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Freedom of religion = Because the owners of the building believe in fairy tales, tales, they can choose which laws they want to apply to them.

Posted by: [sacomment](#) | April 13, 2009 9:23 AM

sacomment:

When the law is an ass, our system allows us to challenge it. What is it about that principle you don't get?

Posted by: [capsfan77](#) | April 13, 2009 11:34 AM

One would think the District will notice the Judge's gun to their head and allow allow demolition - and pay the Church's nominal damages. If not, the Judge will write his decision and impose his own remedy, striking down District preservation laws, and levying an even larger fine.

Hopefully, with the Heller decision still fresh in their minds, the bright bulbs in City Council will understand that it is madness to challenge the Constitution. Especially now, when they don't have the spare change to do much of anything.

This one should be over in 90 days. At least it would be if rational minds were at work here. But that's always a leap of faith.

Posted by: [observer9](#) | April 13, 2009 1:12 PM

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