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Law

Megachurch sues Montgomery County over zoning

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Daily Record Legal Affairs Writer
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A Silver Spring megachurch has filed a federal lawsuit against Montgomery County and the County Council, claiming they have blocked its bid to relocate to a 119-acre plot in Germantown due to religious and racial discrimination.

Bethel World Outreach Ministries, a 2,000-member majority black Christian church that serves as the headquarters of a global evangelical effort, is challenging county zoning regulations and the rejection of its water and sewer applications on constitutional grounds as well as the federal Religious Land Use and Institutionalized Persons Act.

"This church had a very substantial need for a facility ... that can accommodate its various ministries, and it purchased property in a zoning district that allowed places of worship and has been prevented from building its church by various means ever since," said Roman P. Storzer, the church's attorney.

Lawyers for the county contend the zoning ordinance and a recent amendment to it are meant to combat high-intensity development in the so-called agricultural reserve.

"The policy question is, do you want these fairly large facilities, whether it's a private school or house of worship ... in this area?" said Michael Faden, senior legislative attorney for the County Council. "There's some fairly clear lines drawn for land use policy. We're not picking on churches."

Neither Faden nor Clifford Royalty, an assistant state's attorney in Montgomery County, had seen the suit. It was filed last week in U.S. District Court in Greenbelt.

Storzer declined to elaborate on the allegation of racial animus, which both Faden and Royalty vehemently denied.

Inadequate room

According to the suit, Bethel's growth is being choked at its current home base — a 450-seat building on Georgia Avenue



Bethel World Outreach Ministries in Silver Spring.

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that's too small to accommodate an average Sunday crowd of 1,500 people, let alone the church's other functions.

There is inadequate room for religious education and fellowship, support of the church's 200 affiliated congregations worldwide, a planned food and clothing bank, and a counseling program for immigrants, single mothers, seniors and first-time homebuyers, the complaint says.

So, in 2004, Bethel purchased the acreage near the intersection of Brink and Ridge Roads with the intention of building a 3,000-seat church.

Before beginning construction, Bethel sought water and sewage service, which required a change to the county's water and sewage plan map.

A Catholic Church adjacent to the property and with the same zoning category was granted access to public water and sewer in 2001, Storzer noted.

But that approval came when the county took a "much more ad hoc" approach to development, before the county's water and sewer plan was ratified in 2004, Faden said.

Bethel's application drew opposition from some people in the area, he said.

"There were environmental advocates that were concerned about these kinds of incursions into the reserve," Faden said of people who testified against the application. "They weren't opposed to a church per se; they were opposed to a church in this particular spot."

In November 2005, the council denied Bethel's application for the change.

Bethel sought judicial review in the circuit court. Less than four months ago, the circuit court affirmed. The church has appealed that ruling to the Court of Special Appeals.

Royalty, the assistant state's attorney who has litigated that case, said Bethel's application was rejected for "multiple" reasons.

"One reason is, in order to connect water and sewer to their site, the pipes would cross or adjoin a number of properties that are not eligible for water and sewer," thus intensifying development, Royalty said.

Inconsistent with amendment

Scaling back its site plan significantly, Bethel then sought to provide for its own water and septic needs. But on April 8, the council found the plan was inconsistent with a zoning amendment adopted last October, which imposed further restrictions upon certain properties within "Rural Density Transfer Districts" like the one in which the church's land sits.

These districts, Faden explained, were created in the early 1980s to compensate landowners who, as a result of new zoning laws, could no longer subdivide their properties. Instead, they were given development rights they could sell to landowners or developers in other parts of the county where more intensive development is allowed.

Because the former owners of the church's property already had transferred some development rights for the property, Bethel could not build its intended structure.

"The church has been doing everything it can to achieve its goals through the administrative process," Storzer said. "That basically left the church with nowhere else to go."

Bethel seeks a declaratory judgment, an injunction against interference with the church's development and damages it has suffered as a result of the delays. Under the Religious Land Use act, it could also be eligible for attorneys' fees.

Vague 'racial component'

Storzer said the recent history of interactions between the church and the council allow for "an inference" of

discrimination.

He declined to be more specific about the suit's vague racial allegations, which allege "[u]pon information and belief, on at least one occasion an official of the Council stated publicly that there was a racial component to the Council's consideration of the Church's applications."

"I'm shocked that they're trying to inject race into this," said Royalty. "That's preposterous. It's clear the council's decision was based on the law."

Faden demanded to know which council official the church had in mind. Storzer, though, declined to name names.

"We'll have our day in court and so will they," Storzer said.

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