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Tree of Life Christian Schools v. City of Upper Arlington

United States District Court, S.D. Ohio, Eastern Division - April 18, 2014 - Slip Copy - 2014 WL 1576873

When Upper Arlington officials became aware that church was considering purchasing a commercial office building for use as a school, they met with the listing agent and advised him that schools were not a permitted use for that building. The church subsequently contracted to purchase the building, contingent upon zoning to allow a school. Upon learning of the buyer, officials advised the church's school superintendent directly that schools were not a permitted use.

The church was denied a conditional use permit and was informed that it would need to submit a rezoning application if it planned to pursue a private school at that location.

The church filed a complaint alleging violations of its rights to free speech, free exercise of religion, peaceable assembly, equal protection, due process, and the establishment clause under the First and Fourteenth Amendments to the United States Constitution and Article I, Section 7 of the Ohio Constitution, as well as a violation of the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA).

The District Court held that the city's Uniform Development Ordinance (UDO) did not violate RLUIPA's "equal terms" provision, which states that, "No government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution." As the UDO prohibited public schools as well, the prohibition of private schools did not constitute differential treatments.

"As set forth above, RLUIPA requires 'equal treatment, not special treatment.' To interpret RLUIPA to require Upper Arlington to allow Plaintiff to operate a religious school in the ORC Office and Research District, would effectively require Upper Arlington to treat Plaintiff more favorably than secular schools, which are prohibited from operating in that district. Stated differently, while RLUIPA operates as a shield to protect religious assemblies or institutions from unequal treatment, Plaintiff attempts to use the equal terms provision as a sword to receive preferential treatment."