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ZONING - ILLINOIS

Joan Dachs Bais Yaakov Elementary School - Yeshivas Tigeres Tzvi v. City of Evanston

**Appellate Court of Illinois, First District, Sixth Division - March 6, 2015 - Not Reported in
N.E.3d - 2015 IL App (1st) 131809-U**

The City Council of the City of Evanston to denied a zoning application by Joan Dachs Bais Yaakov Elementary School (JDBY) to rezone a parcel of industrial property in Evanston so that JDBY could use the site for a parochial elementary school. Citing the burden of removing the property from the tax rolls, the City Council denied the application. After the denial of its application, JDBY sued Evanston, asserting claims under the “equal terms” and “nondiscrimination” provisions of the federal Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA).

The Appeals Court found no violation of the RLUIPA.

As to JDBY’s as-applied equal terms challenge - requiring that no government shall implement a land use regulation in a manner treating a religious assembly or institution “on less than equal terms” with a non-religious assembly or institution - under the RLUIPA, the court held that JDBY argument failed, due to its failure to offer any similar nonreligious comparators for purposes of the RLUIPA.

The court found that every one of those nonreligious comparators presented by JDBY was a taxable use which would continue to pay property taxes under the accepted zoning criterion, whereas JDBY’s proposed use of a parochial elementary school would result in the removal of one of the largest industrial parcels left in Evanston from the property tax rolls.