

April 8, 2022

Judge tosses suit accusing Hazel Crest of violating church's rights

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A congregation cannot make the case that the Village of Hazel Crest violated its rights with a zoning ordinance that limits the places where religious assemblies may locate, a federal judge held Wednesday.

In a written opinion, U.S. District Judge Harry D. Leinenweber of the Northern District of Illinois granted summary judgment in favor of Hazel Crest in a lawsuit filed by The Word Seed Church.

The suit sought a declaration that the ordinance and its enforcement by the village run afoul of the equal protection clause and the Religious Land Use and Institutionalized Persons Act.

The suit asked that the declaration also state that the ordinance is unconstitutionally vague and gives Hazel Crest too much discretion in enforcing it.

The ordinance requires churches to obtain a special-use permit to locate in Hazel Crest and restricts them to residential zones.

Word Seed maintains there is no piece of residential property in Hazel Crest that meets the village's parking and other requirements and is large enough to accommodate a congregation of at least 120 people.

Hazel Crest violated its statutory and constitutional rights, Word Seed argued in its suit, by failing to let it establish a church anywhere in the village as a matter of right and instead saying it would have to go to the time and expense of obtaining a special-use permit.

The suit contended Hazel Crest also violated Word Seed's statutory and constitutional rights by treating it and other entities seeking to use property for religious purposes less favorably than entities seeking to use property for non-religious purposes.

Word Seed filed its suit in December 2020. Civil Liberties for Urban Believers, an association of churches in the Chicago area, also is a plaintiff in the case.

Hazel Crest filed a motion for summary judgment in November 2021. Word Seed filed its own motion the following month.

In his opinion, Leinenweber noted Word Seed alleges Hazel Crest violated RLUIPA's equal terms, unreasonable limitation, total exclusion and substantial burden provisions.

"However, RLUIPA coverage is limited to protecting religious entities that own property from the imposition or implementation of land use regulations that unfairly discriminate against such religious entities and their activities," Leinenweber wrote, citing *Taylor v. City of Gary*, 233 Fed. App'x 561 (7th Cir. 2007).

And Word Seed, he continued, "does not and never has owned any property in Hazel Crest."

Leinenweber noted Word Seed does not contend that the provisions of the ordinance were enforced against it.

"It instead complains that the existence of the Hazel Crest zoning ordinance, which requires a special use for establishment of a church in a residential district, makes it too costly and difficult to purchase land without a guarantee as to its use, at the time of the purchase," Leinenweber wrote.

However, he wrote, Word Seed did not provide any information about the estimated cost of getting a special-use permit.

"Word Seed of course understands the procedures for obtaining a special use because it complied with the similar special use regulations in the neighboring community of Flossmoor where it applied for and received a special use permit to establish a church there," Leinenweber wrote.

Special-use permits allow 15 properties in Hazel Crest to be used for church purposes, he wrote, but Word Seed "has made no effort to acquire or rent any one of them."

He wrote the fact that Word Seed does not have an interest in any property in Hill Crest and has not applied for a special-use permit limits its equal protection claim to a facial challenge of the ordinance.

But the village has the right to limit churches to a particular zone, Leinenweber wrote.

“There is no basis to argue that the adoption of a special use requirement to regulate the location of churches does not meet constitutional muster,” he wrote, citing *Vision Church v. Village of Long Grove*, 468 F.3d 975 (7th Cir. 2006).

“Moreover, there is no evidence in the record that any entity, church or otherwise, has been treated more favorably than Word Seed has been treated, because Word Seed has not been treated at all by Hazel Crest.”

And Leinenweber rejected the contention that the ordinance is unconstitutionally vague.

The 7th U.S. Circuit Court of Appeals “has specifically upheld special use criteria very similar to Hazel Crest’s,” he wrote, citing *Vision Church*.

The case is *The Word Seed Church, et al. v. Village of Hazel Crest*, No. 20 C 7725.

Word Seed and Civil Liberties for Urban Believers are represented by Andrew S. Willis and John W. Mauck, both of Mauck & Baker LLC.

Mauck said his clients “highly respect” Leinenweber’s opinion.

“However, an America where a municipality can by law exclude all new churches except those receiving discretionary permission is not what our founders envisioned,” he said in a statement. “Word Seed Church will study the opinion, pray and decide next steps carefully.”

Hazel Crest is represented by John B. Murphey and Lauren M. DaValle, both of Odelson, Sterk, Murphey, Frazier & McGrath Ltd. in Evergreen Park.

“The village appreciates the judge’s ruling,” Murphey said.

Noting there are 15 churches in Hazel Crest, which has a population of between 13,000 and 14,000 people, he described the village as “a deeply religious community” that does not discriminate against religious assemblies.