

City of San Leandro

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City of San Leandro Comments on United States Supreme Court Denial of the City's Petition for Certiorari in the International Church of the Foursquare Gospel vs. City of San Leandro Case

Yesterday, the United States Supreme Court denied the City of San Leandro's request that the Court end the confusion and splits in authority among the lower courts in an important case involving religious land use and government obligations to religious landowners under the First Amendment and federal law.

In light of the Supreme Court's decision not to review the *International Church of the Foursquare Gospel v. City of San Leandro* case at this time, the case will be sent back to the District Court (Judge Phyllis Hamilton) for a trial. The Church will have the burden of proving that the City's denial of its application to re-zone the property, subsequent to its purchase, constituted a substantial burden on religious exercise.

The City of San Leandro thanks the National League of Cities, International Municipal Lawyers Association, League of California Cities and the California Chapter of the American Planning Association, among others, for filing amicus briefs in support of San Leandro's certiorari petition. These are issues that affect every city, town, and local and state government in the United States, and require Supreme Court review as soon as possible.

Summary of Case

The case involves the International Church of the Foursquare Gospel ("ICFG"), a religious organization that has thrived in the City of San Leandro for decades. San Leandro is home to over 45 churches. To meet the needs of ICFG's growing congregation and expanding program offerings, ICFG purchased a site in the industrial section of San Leandro that was not zoned for an assembly use.

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ICFG subsequently requested to re-zone the property. In response, the City carefully considered how it might expand opportunities for assembly uses, including religious uses, in industrial areas. Through neutral and generally applicable planning principles, the City's Zoning Code was amended to considerably expand assembly uses. 200 properties were newly available for assembly, including religious use.

However, in applying these new general principals for zoning, the property purchased by the ICFG did not qualify for an assembly use. It was for this reason the City denied the ICFG's request to rezone. ICFG filed a federal lawsuit against the City invoking free exercise claims based on the Religious Land Use and Institutionalized Persons Act ("RLUIPA") and the Free Exercise Clause, among others.

The United States District Court (Hon. Phyllis J. Hamilton) found that the City had acted fairly and lawfully in all of its actions and ruled in favor of the City. The United States Court of Appeals for the Ninth Circuit (Hon. John T. Noonan, Hon. Richard A. Paez, and Hon. Kevin Thomas Duffy, District Court Judge) reversed. The case turns on three free exercise terms that Congress borrowed from the Supreme Court's free exercise doctrine when it enacted RLUIPA: "substantial burden", "individualized assessment," and "compelling interest."

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