

## 4th Circuit Rules Ethnic Bias Gives Rise to RLUIPA Claim

---

Wednesday, February 13, 2019

Last week, the United States Court of Appeals for the Fourth Circuit reversed a lower court's decision dismissing a church's religious discrimination claims. In doing so, the Fourth Circuit found that the church had properly alleged claims under RLUIPA based in part on the community's ethnic bias against the church's connection to associated church's in Kenya, as well as the fact that many of the church's congregants were born in Africa.

The church, known as Jesus Christ Is the Answer Ministries, Inc. ("Church"), bought property in Baltimore consisting of about 1.2 acres previously used as a dwelling ("Property") in 2012. The Property is located in Baltimore County's "Density Residential 3.5" zoning district, where churches are permitted as-of-right, subject to certain conditions. For example, parking lots and structures must be setback at least 75-feet from tract boundaries, and separated from adjacent lots by a 50-foot buffer. The Church filed a petition to use the Property without complying with the conditions of approval. At the public hearing, neighbors made discriminatory comments against the Church, including that the congregants of the Church "danc[e] and holler[] like they back at their home back in Africa somewhere; "[t]hey were out here dancing like from Africa. We don't have that in our block;" and a barrage of racial slurs. The Baltimore County Board of Appeals denied the Church's petition, and also dismissed a subsequent petition that came closer to complying with the zoning requirements than the first.

The Church sued and alleged violations of RLUIPA's nondiscrimination and substantial burden provisions, the Free Exercise Clause, the Equal Protection Clause, and state law. The District Court dismissed the Church's claims after finding that the Church had failed to properly state claims for relief. The Fourth Circuit determined that the Church's claims were properly alleged and reversed the District Court's decision.

The Fourth Circuit found that the Church's nondiscrimination claims gave rise to an inference of religious discrimination based on the community's ethnic bias:

In our view, the neighbor's remarks clearly display ethnic bias, and they can plausibly be understood as displaying religious bias too. We recognize that RLUIPA by its terms prohibits discrimination 'on the basis of religion or religious denomination.' 42 U.S.C. § 2000cc(b)(2). But we do not attempt to disentangle Plaintiffs' allegations of religious and ethnic bias, at least at the motion to dismiss stage where we must view the alleged facts in Plaintiffs' favor.

The Court also found that procedural irregularities (such as denying the Church's petition even though the County Director of the Department of Planning did not oppose it) gave rise to an inference of religious discrimination.

The Fourth Circuit also found that the Church properly alleged its substantial burden claim, and noted that there are two relevant questions that must be asked:

(1) Is the impediment to the Church's religious practice substantial? "The answer will usually be 'yes' where the use of the property would serve an unmet religious need, the restriction on religious use is absolute rather than conditional, and the organization must acquire a different property as a result."

(2) Who is responsible for the impediment - the government or the religious organization? "In answering this question, we have considered whether the organization had a 'reasonable expectation' of religious land use ... and whether the burden faced by the organization is 'self-imposed.'"

**Robinson+Cole**

Article By [Robinson & Cole LLP](#)  
[Evan J. Seeman](#) [RLUIPA Defense](#)

[Litigation / Trial Practice](#)  
[4th Circuit \(incl. bankruptcy\)](#)

The Court found that each of these questions weighed in favor of the Church based on the particular set of facts before it and allowed its substantial burden claim to move ahead. It similarly found that the Church's Free Exercise and Equal Protection claims, along with the state court claim, were properly pleaded. The case was sent back to the District Court for further proceedings.

The decision in *Jesus Christ Is The Answer Ministries, Inc. v. Baltimore County* (4th Cir. 2019) is available [here](#).

Copyright © 2019 Robinson & Cole LLP. All rights reserved.

**Source URL:** <https://www.natlawreview.com/article/4th-circuit-rules-ethnic-bias-gives-rise-to-rluipa-claim>