BETTMAN SYMPOSIUM

PLANNING AS IF “BLACK LIVES MATTER” LAND USE ISSUES

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Planning as if “Black Lives Matter” Land Use Issues

- Black Lives Do Matter.
- How does this statement make you feel?
- Let us discuss…
Planning as if “Black Lives Matter” Land Use Issues (Continued)

• Let us start with the spiritual.

• Namely the Religious Land Use and Institutionalized Persons Act better known as RLUIPA.
Religious worship is a pillar of society.

It offers hope and a sense of community to all including those who have been oppressed, downtrodden or who have limited economic resources.
Planning as if “Black Lives Matter” Land Use Issues (Continued)

- RLUIPA is designed to protect all religious uses from undue land use regulation.

- This is a law that protects people of all creeds and colors.

- Why then is offense taken when some people argue “all lives matter not just Black lives?”
Planning as if “Black Lives Matter” Land Use Issues (Continued)

• An answer is found in an example from Connecticut

• St. Vincent De Paul Place, Norwich, Inc. v. City of Norwich, et al.
  
  o See summary order, Case 13-302 (2nd Circuit)

  o The City of Norwich, an old mill town in eastern Connecticut has a diverse population, many of whom have fallen on hard times
Planning as if “Black Lives Matter” Land Use Issues (Continued)

St. Vincent’s is a food pantry and soup kitchen.
St. Vincent’s also provides the only public showers and medical care for the homeless of Norwich.
Planning as if “Black Lives Matter” Land Use Issues (Continued)

Over 200 people a day eat breakfast and lunch at the former parochial school.
Planning as if “Black Lives Matter” Land Use Issues (Continued)

A Food Drive
Planning as if “Black Lives Matter” Land Use Issues (Continued)

A staff member and patron at Christmas.
The Issue

- Whether a former parochial school now used as a soup kitchen and food pantry is a religious use?

- St. Vincent’s had been serving its patrons for many years at the former railroad station but had to move on an emergency basis when the building developed dangerous structural conditions.

- The former parochial school was ideal as it had a kitchen but in a residential neighborhood.
Planning as if “Black Lives Matter” Land Use Issues (Continued)

Here is a photo of the school.
Upshot

Neighbors in surrounding community objected to change of use because “those people” were walking through neighborhood causing trouble.

Some argued serving food to the poor and homeless not a religious use under RLUIPA
Upshot

- A special permit was sought but denied.

- Federal lawsuit started.

- St. Vincent's cited for continuing to operate without special permit so appealed that order to Norwich ZBA and also asked for use variance.

- Surprise – all denied.
Upshot

- Two more Federal Lawsuits Erupt.

- The first special permit case was dismissed for lack of ripeness but reinstated by the Second Circuit after it determined that:

- “…it appears that even under the most stringent ripeness inquiry of Williamson County,* appellants’ claims are now ripe.”

Upshot

- Neighbors continue to complain about bad acts in neighborhood.

- Though a plurality of the Soup Kitchen’s patrons are Caucasian, some neighbors highlighted examples of who they thought were causing trouble.

- Photos submitted to Norwich Public Safety improperly labeled examples as soup kitchen related.
Recent Cases

- Cases ultimately settled with complex terms to satisfy all parties including neighbors (though they remain opposed).
- Second Circuit decision in St. Vincent – [St-Vincent-Decision.pdf](#)
- Stipulated Judgment attaching the settlement: [St.-Vincent-Stipulated-Judgment.pdf](#)
Issues of Prison Housing

Siting prisons in rural areas but with large minority urban populations.

Federal and State prison systems locate prisons to ensure security but also as economic drivers for rural communities.

Needless to say locating a prison is not an easy task.
Examples

- Attica, New York
  - This is a maximum security prison to house inmates who have been convicted of committing felonies under New York law.
  - Infamous for 1970’s prison riot that left 41 dead.
- Houses inmates from throughout New York State
Examples

- Attica is located in upstate New York about a 7 to 8 hour drive from New York City.
Examples

- Connecticut sends a number of its inmates to other states such as Virginia.
- Families have great difficulty visiting these inmates due to time, distance and money issues.
Nationwide

- The federal prison population is disproportionately Black and Hispanic.

- As of February 27, 2016 the Federal Bureau of Prisons reports by race that its prison population consists of:

  Asian 1.5%; Black 37.7%; Native American 2.0% and White, including Hispanic, 58.8%

  The Hispanic population is 33.7% and non-Hispanic 66.3%

  The states, by and large, show similar statistical results
As Mark Twain said there are “lies, damn lies and statistics.”

SO WHAT ARE NEXT STEPS?

From a land use perspective

Recognition that religious institutions play an important role as safety nets

For the incarcerated increased access to halfway houses and other forms of rehabilitative housing

Most importantly, honest exchanges about race relations including how they affect land use planning for your community