

No RLUIPA Violation in Religious Ballfield Case

Marianist Province of the United States v. City of Kirkwood, 944 F.3d 996, 1001 (8th Cir. 2019)

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In [*Marianist Province of the United States v. City of Kirkwood, 944 F.3d 996, 1001 \(8th Cir. 2019\)*](#), The U.S. Court of Appeals for the Eighth Circuit affirmed a lower court's summary judgment ruling which found that the City of Kirkwood, Missouri did not violate RLUIPA when it approved a lighting plan for a baseball stadium subject to conditions that allegedly deprived the fields of meaningful use at night. St. John's Vianney High School, Inc. (Vianney), an all-male Marianist high school, operated in the City since 1960 and played baseball games on sports fields for more than 57 years without lights. It wanted to expand its baseball games from daytime to nighttime to draw people to its 37-acre campus to evangelize and share its faith. In 2012, the City adopted a revised zoning code, which included lighting regulations that limited the maximum illumination levels of light cast onto adjoining residential properties, among other things. The City's planner incorrectly believed that lights already existed at the ballfield that Vianney could continue to use as a pre-existing, legal nonconformity without the need for a variance. In 2015, Vianney obtained permits and installed lights at a cost of \$235,000.00. After residential neighbors complained about the lights, the City informed Vianney that the lights were not permitted. Vianney submitted another site plan, which was approved but subject to conditions that Vianney alleged severely restricted the use of the lights. The Eighth Circuit determined that site plan conditions did not substantially burden Vianney's religious exercise under RLUIPA because there were feasible alternatives available to Vianney, such as using its baseball field during the day and other sports fields at night. The Eighth Circuit also concluded that Vianney could not prevail on its RLUIPA equal terms claim. Vianney asserted that the City treated a public high school more favorably because it exempted that school's football stadium lights from the regulations but refused to exempt Vianney's baseball field lights. However, the public school's lights were installed prior to the 2012 zoning code amendment. Since the public school and Vianney were subject to different regulations (pre- and post-enactment of the lighting regulations), the public school

was not a valid comparator. Vianney's regulatory taking claim was rejected because the City's regulations "do not deprive Vianney of all use of its baseball field but simply limit the light and sound trespass it can impose on neighboring homes." The Eighth Circuit concluded that the lower court erred by considering the merits of Vianney's Religious Freedom Restoration Act (RFRA) claim, given summary judgment was granted on the federal RLUIPA claims. Accordingly, the court vacated and remanded that portion of the decision with an order to dismiss the Missouri RFRA claim without prejudice.