

FILED
CIVIL INTAKE

2006 DEC 18 AM 10:13

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

JOHN T. FREY
CLERK, CIRCUIT COURT
FAIRFAX, VA

VIRGINIA:

IN RE:

CHURCH OF THE APOSTLES
3500 Pickett Road
Fairfax, Virginia 22031

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CIVIL NO. 2006 15793

**PETITION FOR APPROVAL OF REPORT OF
CONGREGATIONAL DETERMINATION PURSUANT TO VA. CODE §57-9**

For its petition, Church of the Apostles (“Apostles Church”), hereby states as follows:

NATURE OF PROCEEDING

1. Pursuant to Va. Code §57-9, Apostles Church, a non-stock religious corporation organized under the laws of Virginia, respectfully files this petition for approval of the report of its congregational determination filed herewith in accordance with that statute. Section 57-9 provides that where a religious diocese or denomination experiences a “division,” the members of a congregation in that diocese or denomination may determine, by majority vote, which branch of the divided body to join, and that the circuit court’s approval of that determination is conclusive as to the title to and control of any property held in trust for such congregation.¹

¹ Va. Code §57-9 provides in relevant part:

If a division has heretofore occurred or shall hereafter occur in a church or religious society, to which any such congregation whose property is held by trustees is attached, the members of such congregation over 18 years of age may, by a vote of a majority of the whole number, determine to which branch of the church or society such congregation shall thereafter belong. Such determination shall be reported to the circuit court of the county or city, wherein the property held in trust for such congregation or the greater part thereof is; and if the determination be approved by the court, it shall be so entered in the court's civil order book, and shall be conclusive as to the title to and control of any property held in trust for such congregation, and be respected and enforced accordingly in all of the courts of the Commonwealth.

JURISDICTION AND VENUE

2. This Court has jurisdiction of the subject matter of this petition pursuant to Va. Code §57-9, which authorizes “the circuit court of the county or city, wherein the property held in trust for such congregation or the greater part thereof is” to receive a report concerning a congregation’s determination as to which branch of the post-division diocese or denomination the congregation wishes to join. Apostles Church, through its Trustees (the “Trustees”), holds fee simple title to real property located in Fairfax County, Virginia. According to the relevant deeds, these trustees hold title to this property in trust solely for the congregation of Apostles Church.

3. Venue is proper in this Court pursuant to Va. Code §8.01-261.3, since the real property that is the subject of this petition lies entirely within Fairfax County.

4. Although the division described below and in the attached report (which is incorporated by reference herein) arose on account of theological and doctrinal differences within the denomination, this Court’s action will require resolution of no theological or doctrinal issues, and can and must be effected pursuant to neutral principles embodied in Virginia law.

5. Apostles Church has provided notice of these proceedings to:

The Diocese of Virginia
c/o Russell Palmore, Esq., Chancellor
Troutman & Sanders
1001 Haxall Point
Richmond, Virginia 23219

The Episcopal Church
c/o David Booth Beers, Esq., Chancellor
Goodwin Procter LLP
901 New York Avenue, N.W.
Washington, D.C. 20001

6. The foregoing notice does not concede or imply recognition of any legal basis for a claim of ownership by TEC or the Diocese to Apostles Church’s property.

CHURCH OF THE APOSTLES PROPERTY

7. Apostles Church currently owns and/or occupies four parcels of real property located in Fairfax County, Virginia. These four parcels of land are identified in the Fairfax County Tax Map 067-1-01 as Parcels 33 (Deed Book 11896, Page 0057) and Parcels 34A and 34 B (Deed Book 11150, Page 1655), and in the Fairfax County Tax Map 58 1 02 021 (Deed Book 3570, Page 335). The former three parcels are contiguous parcels located at the intersection of Braddock Road and Fairfax County Parkway. The fourth parcel, located in Fairfax City, is located at 3500 Pickett Road, Fairfax, Virginia, and is the site of the Apostles Church Sanctuary. References hereafter to the “Property” describe these four parcels of land collectively.

8. Purchase of Apostles Church’s Pickett Road parcel, and the construction, maintenance, and improvement of each of the buildings located thereon, were financed by a \$10,000 gift from Truro Church and contributions by Apostles Church parishioners. Purchase of the Braddock Road parcels was accomplished by funds from parishioners. The Diocese contributed no funds to the purchase of any of the four parcels.

9. Between 1989 and 2006, Apostles Church voluntarily contributed more than \$1.5 million to the Diocese (and indirectly to TEC) or Diocesan ministries. By contrast, Apostles Church has no record of receipt of any financial support from the Diocese or TEC for building or general operating funds. Similarly, the personal property that Apostles Church owns has been purchased with members’ donations, not with any financial support from the Diocese.

10. None of Apostles Church’s deeds grant any of the Property at issue to trustees for TEC or the Diocese.

