

Quincy Diocese Can Leave Episcopal Church with its Property

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The Illinois Appellate Court, 4th District, ruled in July that the Diocese of Quincy, Illinois could leave The Episcopal Church while retaining its property, including real estate and various bank accounts and other investments.

In November 2008, the Diocese of Quincy, along with most of the individual congregations in the Diocese, left the Episcopal Church as a result of theological disputes with the denomination. This is an all too familiar situation with many individual Episcopal, Lutheran, Presbyterian and Reformed congregations seeking to leave their current denominations for more conservative ones.

As is typical in these cases, The Episcopal Church sought to retain the real and personal property of the Diocese (the church buildings and their contents and church bank accounts and investments). After an extended trial involving enormous expense on both sides and many witnesses, the Trial Court ruled for the Diocese of Quincy, finding that it could retain its property.

On appeal, the Illinois Appellate Court for the 4th District affirmed the Trial Court. In its ruling, it held that under Illinois law, these kinds of church property disputes should be resolved under the "neutral principles of law" approach in which Court's do not resolve theological questions or matters of internal church polity, but rather resolve disputes as if the parties were secular ones. In doing so, they look at evidence such as church constitutions, bylaws, deeds, trust documents, and the like.

The Appellate Court found that The Episcopal

Church had no provision in its constitution which granted a trust in favor of the denomination for diocesan property, nor had the Diocese in any way consented to such a trust. The Court also took into account that the Diocese had amended its own governing church documents and legally seceded from the Episcopal Church.

The potential loss of church property by congregations seeking to leave their denominations is a heavy burden that hangs over these congregations even when the theological differences have become great. While the Quincy case is encouraging news for such congregations, each such case must be decided on its own facts. Whether a departing congregation will be able to retain some or all of its property will be determined by the unique facts and circumstances applicable to that congregation. Therefore, congregations seeking to leave their denomination should undergo a thorough examination of their governing instruments, deeds and trust documents, as well as the governing instruments of the denomination before acting. It is also critical that each such congregation arrange its affairs to best let it take advantage of the neutral principles of law approach before seeking to leave the denomination in order to maximize its leverage in the negotiations. The sooner the congregation employs experienced counsel the better.

We believe that while each congregation should seek to retain as much of its property as is fair and reasonable, the most important part of a congregation is its believing membership. The spiritual health of those believers is far more important than the property. ■