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Locals risk lawsuits over church zoning

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Noncompliance with federal laws can be costly.

Evanston, Ill., a Chicago suburb, was taken to court in 2000 for denying a special permit for a local church — the Vineyard Christian Fellowship — to worship at an old office building that it hoped to convert into its new home. In the suit, the church claimed the city violated the federal constitution, state law and the Religious Land Use and Institutionalized Persons Act (RLUIPA), a federal law that dictates how tightly local governments can regulate religious land use

Under Evanston's zoning codes, houses of worship were banned from the relevant zone even though other groups such as clubs and concert halls could locate in the zone. The city's regulations would allow the church to use the building for office space, meetings or even concerts with religious content — but not for worship services. The church claimed the code treated it unequally from similar uses and prevented it from exercising its right to worship.

But Evanston stood by its zoning code, arguing that governmental interest in preserving a harmonious zoning scheme outweighed the church's interest in worshipping at the property. Unfortunately for the city, the court disagreed, and Evanston was ordered to pay hundreds of thousands of dollars in legal fees and settlement costs to the church. The problem could have been avoided had Evanston assessed its zoning code's compliance with religious land use law.

Noncompliance with state and federal laws about zoning of religious land use can prove to be costly for local governments. Across the country, many municipalities have already paid hundreds of thousands of dollars to religious organizations, which claimed that zoning laws infringed upon their free exercise rights. The growing threat of litigation makes it imperative that municipalities understand the intricate planning issues and community concerns.

Recently, Wilmette, Ill., another Chicago suburb, used a preemptive approach to zoning litigation by taking advantage of a new legal tool called a Religious Land Use Plan. Wilmette's religious land use plan explained the evolving legal principles relating to religious land use and reviewed the village's zoning code for compliance with RLUIPA, federal constitutional provisions and Illinois law.

For many communities, the traditional residential zoning of houses of worship has caused a natural dissonance between community groups, churches and local governments, producing frustration. The problem is rooted in a century-long tradition of zoning houses of worship as residential. When zoning practices emerged in the early 1900s, most communities needed a house of worship within walking distance of their homes, with churches only operating on Sunday mornings.

By the end of the century, however, the American house of worship evolved drastically, creating a need for church zoning to be rethought. Many of today's houses of worship have ministries and outreaches throughout the week, not just on Sundays.

The modern church seeks property that supports its expanding uses, is accessible to its congregates and visible enough to draw new members. Property fitting that description rarely exists in residential neighborhoods.

Mounting frustration felt by houses of worship and homeowners has spawned lawsuits across the country. A religious land use plan limits liability by using prevailing legal principles to zone for religious facilities and creativity to update zoning codes.

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