

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

**EDINA COMMUNITY LUTHERAN
CHURCH and UNITY
CHURCH OF ST. PAUL,**

Plaintiffs,

v.

STATE OF MINNESOTA,

Defendant.

Court File No. _____
Case Type: Other Civil

COMPLAINT

Plaintiffs (collectively, “Religious Institutions”), for their Complaint, state and allege as follows:

1. This is an action for declaratory and equitable relief challenging a statute of the State of Minnesota (“the State”), officially known as the reenacted Minnesota Citizens’ Personal Protection Act of 2003 (“the Reenacted Act”), and unofficially known as the “conceal-carry” law.

2. Each Religious Institution is an organization of a religious faith incorporated as a religious or non-profit corporation. Plaintiff Edina Community Lutheran Church is located in Edina, Minnesota, and is a congregation of the Evangelical Lutheran Church in America. Plaintiff Unity Church of Saint Paul dba Unity Church Unitarian is located in St. Paul, Minnesota, and is a member of the Unitarian Universalist Association.

THE ACT

3. On April 28, 2003, the Minnesota Legislature passed, and the Governor signed into law, the Minnesota Citizens' Personal Protection Act of 2003 ("the Act"). The Act took effect on May 28, 2003.

4. The Act purported to regulate the carrying of firearms in "private establishments," defined as "a building, structure, or portion thereof that is owned, leased, controlled, or operated by a nongovernmental entity for a nongovernmental purpose." The Act prevented owners and operators of private establishments from prohibiting firearms, including firearms of employees, in parking areas. The Act further prohibited landlords from restricting the lawful carry or possession of firearms by tenants or their guests. The Act further provided that the owner of a private establishment may order a person carrying a firearm "under a permit or otherwise" to leave only after making a "reasonable request" that firearms not be brought into the private establishment. The Act provided that a "reasonable request" meant the prominent posting of a conspicuous sign with specific words at all entrances and personally informing the person of the ban on firearms and demanding compliance. A person with a firearm who failed to leave committed a petty misdemeanor. Under Minnesota law, a petty misdemeanor is not a crime.

COURT CHALLENGES TO THE ACT

5. On May 20, 2003, Edina Community Lutheran Church and others commenced an action in the District Court, Fourth Judicial District, against the State of Minnesota, captioned Edina Community Lutheran Church, et al. v. State of Minnesota, Court File No. MC 03-0081815 (Rosenbaum, J.) ("ECLC I"). Plaintiffs alleged that the

Act violated their right to religious freedom guaranteed by Minnesota Constitution Article I, Section 16.

6. On June 6, 2003, in ECLC I, the District Court issued temporary injunctive relief regarding the Act's provisions regarding notification. The District Court allowed plaintiffs to "prohibit firearms, and provide notice thereof, in any lawful manner." Relying on the doctrine of standing, the District Court denied injunctive relief with respect to the Act's provisions regarding parking areas, employers, and leased space. Plaintiffs appealed the District Court's denial of injunctive relief.

7. On July 13, 2004, the Minnesota Court of Appeals reversed the District Court with respect to the Act's provisions regarding parking areas, employers, and leased space. The Court of Appeals held: "Because the act affects appellants' property rights and their right to free religious exercise under the Minnesota Constitution, an actual controversy exists that involves adverse interests and is capable of specific relief." The Court of Appeals remanded the case to the District Court.

8. On March 16, 2004, the District Court extended its temporary injunctive relief in ECLC I to the Act's provisions regarding parking areas, employers, and leased space. In extending the injunctive relief, the District Court determined that "[t]he challenged provisions of the Act impair Plaintiffs' constitutional rights to worship and rights of conscience," in violation of Article I, Section 16 of the Minnesota Constitution. The State did not appeal.

9. In the meantime, Unity Church of St. Paul commenced an action in the District Court, Second Judicial District, against the State of Minnesota, captioned Unity Church of St. Paul, et al. v. State of Minnesota, Court File No. C9-03-9570 (Finley, J.)

(“Unity Church”). Numerous religious institutions intervened as plaintiffs. Unity Church included not only allegations that the Act violated religious freedom, but also that the Act was unconstitutional as part of a law embracing more than one subject in violation of Minnesota Constitution Article IV, Section 16.

10. On July 14, 2004, in Unity Church, the District Court determined that the law containing the Act was unconstitutional as embracing more than one subject. The District Court severed the Act. In dictum, the District Court commented: “There is no question that the Act infringes upon those [religious] beliefs as it relates to the use of their properties, especially parking lots,” and that the State had not identified any compelling interest for such infringement.

11. On April 12, 2005, without deciding the religious freedom issue, the Minnesota Court of Appeals affirmed the District Court’s determination.

THE REENACTED ACT

12. On May 13, 2005, the Minnesota Senate passed S.F. No. 2259, a retroactive reenactment of the Act. On May 18, 2005, the Minnesota House of Representatives passed S.F. No. 2259, and it was signed by the Governor on May 24, 2005. The provisions challenged herein became effective immediately and retroactively to April 28, 2003. The Legislature adjourned on July 13, 2005.

13. Upon passage and signing of the Reenacted Act, the District Court (Finley, J.) dismissed the Unity Church case.

14. Upon passage and signing of the Reenacted Act, the District Court (Rosenbaum, J.) dismissed the ECLC I case.

15. The Reenacted Act contains all of the provisions challenged in the ECLC I and Unity Church cases, with one amendment. The Reenacted Act provides that, to prohibit firearms from private establishments, the owner must make a “reasonable request,” which consists of: (i) the prominent posting of a conspicuous sign at every entrance containing certain language; or (ii) personally informing the person that guns are prohibited on the premises and demanding compliance.

THE REENACTED ACT AND RELIGIOUS INSTITUTIONS

16. Each Religious Institution is a “private establishment” as defined by the Reenacted Act.

17. Each Religious Institution has prohibited firearms (except those carried by peace officers on official business), whether carried pursuant to permit or otherwise, from all of its real property, including parking areas and leased space. The prohibition includes firearms carried by employees.

18. Each Religious Institution notifies persons entering its real property of its prohibition of firearms, but not in the exact manner required by the Reenacted Act. Each Religious Institution includes a religious message in its notification.

19. The Religious Institutions, as private establishments, as owners and operators of parking areas, and as employers have been injured by the Reenacted Act. Edina Community Lutheran Church as landlord has been injured by the Reenacted Act. Further, the Reenacted Act has a chilling effect on the Religious Institutions’ and their members’ exercise of their constitutional rights. Each Count below incorporates the foregoing allegations.

COUNT ONE
MINNESOTA CONSTITUTION ARTICLE I, SECTION 16

20. Based on their respective sincerely-held religious beliefs, the Religious Institutions aver that the presence of firearms on their real property (except carried by peace officers on official business) is inconsistent with their religious convictions. Based on their respective sincerely-held religious beliefs, the Religious Institutions aver that the methods they have chosen and will chose to notify persons of their prohibition of firearms further their missions and worship practices.

21. The Reenacted Act controls and interferes with the Religious Institutions' rights of conscience and burdens the exercise of the Religious Institutions' beliefs by: (a) preventing the Religious Institutions from prohibiting firearms in their parking areas and requiring them to allow in their parking areas persons with firearms; (b) preventing the Religious Institutions as employers from prohibiting their employees from carrying or possessing firearms in their parking areas and requiring them to allow employees to carry firearms in their parking areas; (c) preventing Edina Community Lutheran Church as landlord from prohibiting firearms in leased space and requiring it to allow tenants and their guests to carry firearms in leased space; and (d) requiring the Religious Institutions to communicate their prohibition of firearms by specific words on a specific form of sign at specific locations, all dictated by the State rather than chosen by each Religious Institution, or requiring the Religious Institutions to modify their customary welcome of worshipers and other persons entering their buildings to include personal notification of the prohibition on firearms and a demand for compliance.

22. The State's interest in controlling and interfering with the Religious Institutions' rights of conscience and burdening the exercise of the Religious Institutions' religious beliefs, if any, is not compelling.

23. The Reenacted Act is not the least restrictive means for effectuating the State's interest, if any.

24. Accordingly, the Reenacted Act violates Article I, Section 16 of the Minnesota Constitution.

COUNT TWO
FREEDOM OF RELIGIOUS ASSOCIATION, U.S. CONSTITUTION

25. The Religious Institutions have a fundamental right of religious association under the first and fourteenth Amendments to the United States Constitution. This right includes the right not to associate with others.

26. In the exercise of sincerely-held religious beliefs, each Religious Institution has chosen not to associate on its religious property with persons (except peace officers on official business) who insist on carrying firearms onto that property.

27. The Reenacted Act requires that the Religious Institutions associate with, and not exclude from the Religious Institutions' property, persons who insist on carrying firearms, including: (a) employees with firearms in the Religious Institutions' parking areas; (b) non-employees with firearms in the Religious Institutions' parking areas; and (c) tenants and their guests with firearms in leased space.

28. The Reenacted Act requires that the Religious Institutions associate with, and allow into their houses of worship, persons with firearms unless the Religious Institutions undertake the Reenacted Act's burdensome notification requirements.

29. The Reenacted Act controls and interferes with the Religious Institutions' right of religious association.

30. The State's interest in controlling and interfering with the Religious Institutions' right of religious association, if any, is not compelling.

31. The Reenacted Act is not the least restrictive means for effectuating the State's interest, if any.

32. Accordingly, the Reenacted Act violates the first and fourteenth Amendments to the United States Constitution.

COUNT THREE
RELIGIOUS LAND USE ACT OF 2000

33. The Reenacted Act's provisions regarding parking areas, leased space, and building notification are land use regulations within the meaning of the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA"), 42 U.S.C. Section 2000cc et seq.

34. The Reenacted Act imposes and implements land use regulations in a manner that treats the Religious Institutions on less than equal terms with certain nonreligious assemblies and institutions, including private residences, schools, certain state property, and courthouse complexes.

35. The Reenacted Act imposes and implements land use regulations that unreasonably limit Religious Institutions, including their religious assemblies, institutions, and structures within the State of Minnesota.

36. Accordingly, the State, through the Reenacted Act, has violated RLUIPA.

37. The Religious Institutions have been injured by the State's land use regulations and have standing to assert violations of RLUIPA.

PRAYER FOR RELIEF

Wherefore, the Religious Institutions request that the Court issue an order:

1. Declaring that the Reenacted Act as applied to the Religious Institutions violates the Minnesota Constitution, the United States Constitution, and RLUIPA;
2. Declaring that the Religious Institutions may prohibit the possession of firearms in their parking areas;
3. Declaring that the Religious Institutions may, by contract, prohibit the possession of firearms in leased space;
4. Declaring that the Religious Institutions may communicate their prohibition on the possession of firearms on their real property by such words, and by such methods, as private residents;
5. Enjoining the State of Minnesota from enforcing the Reenacted Act as against the Religious Institutions;
6. Awarding the Religious Organizations their attorneys' fees, expenses, and costs; and
7. Granting such other and further relief as is just and proper.

Dated: July 20, 2005

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Acknowledgment

The undersigned hereby acknowledge that costs, disbursements, and reasonable attorney fees may be awarded pursuant to Minn. Stat. § 549.211, subd. 2.

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