

Who Owns God's Property?: Shifting Politics Cost Some Congregations Their Church

Amundsen Davis Commercial Litigation Alert
February 16, 2017

Re-alignment of a congregation with a new denomination is typically driven by ideals, but as usual, money becomes the bone of contention.

As congregations choose to disaffiliate, they are informed by their denomination that they are forfeiting all church property. This is often a shock. What follows is a protracted and expensive legal battle for control over church property between the congregation and the denomination.

What happens next is less than predictable. As national denominations attempt to exert control over local congregations, oftentimes through their governing documents (sometimes called constitutions), the outcomes vary dramatically from state to state. Not only do different states have their own laws for the ownership and transfer of property, but some states depart from the generally applicable property laws that might apply to businesses or individuals. Instead, some states defer to denominational rules when deciding how to settle a church property dispute.

The drastically different approaches some states take in resolving church property disputes is demonstrated by the outcome of two factually similar church property disputes in Kansas and Missouri. The congregations in each case were members of the same denomination, but on opposite sides of the state line. In Missouri, the congregation at Gashland Presbyterian Church was able to successfully disaffiliate and retain all church property because disputes are resolved in the same way a property dispute might be resolved between two businesses. In Kansas, however, the disaffiliating members of the Presbyterian Church of Stanley lost control of their \$4.4 million building and all its contents. This is because Kansas law defers to denominational rules that most often favor the denomination.

At present, there is much uncertainty for congregations across the country considering disaffiliation in favor of a different denomination. Before taking steps toward disaffiliation church officials would be wise to speak with a lawyer in order to determine: 1) how their church property is held; 2) whether any language in the denomination's governing documents makes claim to church property; and 3) how courts in the congregation's state handle church property disputes.

RELATED SERVICES

Business Litigation