

HOW TO CLAIM PARISH RIGHTS

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This paper seeks to educate the average parishioner about basic canonical processes for claiming parish rights, particularly with regard to suppressing or merging parishes. The advice of a competent canon lawyer is strongly recommended in any pursuit of redress. Canonical information in this paper was derived from the book *The Parish in Catholic Tradition: History, Theology and Canon Law* by Fr. James A. Coriden, who is a professor of Canon Law at Washington Theological Union and one of three general editors of *The Code of Canon Law : A Text and Commentary* (Paulist Press).

About Parishes and Dioceses.

Parishes are first and foremost places where Catholics experience Jesus' saving presence and grow to Christian maturity through the preaching of the Word, partaking of Eucharist and the other sacraments, and of course, the faith filled companionship of one another. Parishes are not administrative units but true churches.

Dioceses, on the other hand, are administrative units. The bishop's primary duty is to provide oversight in service of the common good of the local communities. In this capacity, the bishop and his staff guide, assist, coordinate, support and serve as spokespeople for local congregations. In the words of Fr. James Coriden, "Dioceses exist to unify and enable the local churches."

Sometimes the rights of parishes are not respected. In a March 2006 letter, the Vatican's Cardinal Dario Hoyos instructed that the financial assets of a newly closed parish must be transferred to the receiving parish, not to the diocese. Hoyos, who is head of the Congregation for the Clergy, wrote to U.S. Conference of Catholic Bishops' president, Bishop William Slystad asking him to relay this instruction to all U.S. Bishops. Hoyos said it was "not uncommon" for U.S. dioceses to wrongly invoke canon 123, which allows a closed parish's assets to go to the diocese, many of which are cash strapped because of the clergy sex abuse crisis. He said, "Only with great difficulty can one say that a parish becomes extinct. A parish is extinguished by the law itself only if no Catholic community any longer exists in its territory, or if no pastoral activity has taken place for a hundred years." He wrote, "In most cases 'suppressions' are in reality an 'amalgamation' or 'merger' and as such the goods and liabilities should go to the enlarged parish community and not to the diocese." (For a full text of the Castrillon Hoyos letter, visit www.futurechurch.org.)

In 2004, the Boston Archdiocese suppressed 70 parishes because of the priest shortage and financial needs arising from clergy sex abuse claims. Over the next eighteen months, twelve parishes were restored, but only after parishioners occupied their churches in around the clock prayer vigils while seeking canonical and civil redress. Seven parishes have appeals pending with the *Apostolic Signatura*, the highest court in the Catholic Church. It is surprising that all seven were accepted because the *Signatura*, like the U.S. Supreme Court, can simply reject appeals, and usually does. In May 2006, the *Signatura* instructed Boston's Cardinal Sean O'Malley to safeguard all seven parish properties while the seven appeals are heard. According to canon law specialists, the decree instructions are completely unprecedented.

How does a parish community vindicate or defend its rights in canon law when there is a perception that they have been violated? Who may claim these rights on the parish's behalf?

Who Can Claim Parish Rights?

- ❑ The Parish Pastor and His Substitutes. Canon 532 says, "The pastor represents the parish in all juridic affairs in accord with the norm of law." This means that the pastor is obliged to safeguard the legitimate interests of the parish and he is 'not at liberty to permit the rights of the congregation to be violated or abridged, even by those in higher authority' (Coriden, p.84). He is also bound to call upon the parish community to assume its rightful responsibilities. Parochial administrators, assistant pastors and priests charged with the care of communities are all bound to safeguard the rights and obligations of the communities they pastor.
- ❑ Those Entrusted to Pastoral Care for the Parish. In cases of pastoral need, such as in the priest shortage, canon 517.2 permits lay ministers, deacons, lay men and women, vowed religious, or a community of such persons, to be given pastoral charge of a parish. In this situation, these ministers

have the same responsibilities as priest pastors to tend to the rights and obligations of the parish community. The priest who has been given supervisory canonical powers and faculties of pastor “has a residual and secondary duty to pursue the rights of the parish. But the ministerial leader ... who is the one in charge on the scene and has a personal and pastoral relationship with the members of the community, bears the responsibility,” according to Fr. James Coriden (p.85).

- ❑ The Parish Finance Council and Pastoral Council. If those entrusted with the pastoral care of the parish cannot or will not act to defend the rights of the parish community, the agent of the parish is the pastoral council. Canon 536 tells us its main role is to foster parish pastoral activity and represent the parish community. The same obligation is incumbent on the finance council, particularly for issues related to parish assets (c.537).
- ❑ The Parishioners. Because parishioners have a direct and legitimate interest in the welfare of their parish and could suffer real harm from suppression and destruction of their church, their legal standing is found in the canonical provisions that incorporate them as members of the parish, either territorial, or personal, or their de facto acceptance as parish members, which entitles them to personal care (cc. 102, 518). While large numbers of parishioners may represent the parish better than just a few, the “supreme court” of the Catholic Church, the *Apostolic Signatura*, has recognized as few as two parishioners as having legal standing to pursue an appeal opposing suppression of their parish. (Prot. No. 22036/90 C.A., Chicagien. *Suppressionis paroeciae*, D.mi Anselmo et Caiambrone vs. Congr. pro Clerics; decision given June 20, 1992. [The Parish in Catholic Tradition by Fr. James Coriden, p.86]).
- ❑ People Outside the Parish. Other Church officials whose duties involve the care of parishes also have responsibility to see to the defense of the parish rights and fulfillment of parish obligations for parishes within their authority. These could include deans of deaneries or vicariates (c.555), episcopal vicars (c.476), the presbyteral council (c.495.1, 515.2, 122.2), the diocesan promoter of justice (c. 1430), and of course, the diocesan bishop and vicar general (cc. 384, 391-394, 396, 475; *Directory on the Pastoral Ministry of Bishops*, 174-183).

How to Vindicate Parish Rights

In his book *The Parish in the Catholic Tradition: History, Theology and Canon Law*, Fr. James Coriden lists four lines of action that those responsible for defending parish rights can pursue:

- Be alert and participate in information-gathering and decision-making processes in advance of any action against the interests of the parish.
- After the fact, seek a solution through direct appeal, conciliation or mediation.
- Take administration recourse against an action that is perceived to be adverse to parish rights.
- Bring the matter before an ecclesiastical court.

Participation in Decision-Making Processes

It probably goes without saying that those representing the parish and all who care about its welfare must be fully engaged in any and all studies, plans or reviews involving its future well being. Parishioners and parish leaders should all be involved and carefully monitor the process. For an excellent example of one diocese’s work to engage and empower parishioners, visit the Cleveland Diocese’s *Vibrant Parish Life* process at www.dioceseofcleveland.org/vibrantparishlife/.

Direct Appeal, Conciliation or Mediation

Once an action has been taken that is perceived to be contrary to the rights of the parish community and will harm or adversely affect it, the first step is to represent the interests of the parish, in person, directly and in a respectful way. For example, before putting anything in writing, appropriate parish leadership should seek a personal meeting with the bishop to show evidence and present the parish’s point of view. That failing, mutually agreed upon people with mediation and arbitration gifts could be engaged to seek just resolution of differences. Some dioceses have mediation and due process offices. Canon Law places a high premium on exhausting all other effective means of resolving differences before pursuing canonical litigation. This being said, it is important to be aware there is a limited amount of time to pursue canonical appeal after a decision has been taken.

Administrative Recourse

Canons 1732-1739 outline the procedures for appealing an administrative decision either to the person who made it or to the person’s hierarchical superior. According to Coriden, “This process can be effective because it gives access to persons who have the ability to make a difference (see c. 1739).”

- ❑ Appeal in writing to the person who made the decision perceived to be harmful to the community. An example could be a decision to close or merge a vital, solvent and apostolically faithful parish community solely because there is no priests available to live on the premises or because of the value of parish real estate.
- ❑ Appeal in writing to the hierarchical superior of the one who took the action. For example, parish representatives may write to the diocesan bishop about an action taken by the pastor or to the Congregation for the Clergy in Rome for an action taken by the bishop. This may be taken “for any just reason” (c. 1737).
- ❑ Timing is important. Canon Law specifies that there are specific time frames within which the appeals must be lodged. For example, the first written appeal must be made within ten working days of the action that is perceived to be harmful, such as the announcement of the decision to close or merge a given parish. Canon Law provides for suspension of the action while the appeal is being considered. Thus, the parish should remain open while the appeal process is under way.
- ❑ Appeal to the Apostolic Signatura. The Signatura has authority to review administrative decisions. For example, if the first appeal was the diocesan bishop and the second to the Congregation for the Clergy, the next step is to the *Apostolic Signatura*, the supreme tribunal in the Church (c. 1445.2). Such appeals are made either directly to Rome or through the Apostolic Nuncio in Washington, D.C. at 3339 Massachusetts Ave., N.W., Washington, D.C. 20008. Names and addresses for appropriate Roman Curia officials are listed in the Official Catholic Directory, published by P.J. Kenedy & Sons, New York.

Ecclesial Courts

Every diocese has an ecclesiastical court. While most of the docket is filled with marriage cases, Canon Law prescribes that these courts are open to a wider range of rights claims (cc. 221, 1491, 1400.1, 1400.2, 1502-1504). These diocesan courts have rarely been used for this purpose, but one may consider submitting a petition in this venue as well.

Conclusion

Claiming parish rights does not in any way denigrate legitimate of Church leaders or the communal nature of the Church. Instead, Fr. Coriden says, “It emphasizes the communitarian principle within the Church and focuses on the Church’s true nature as a communion of local communities. It is an authentic expression of the Catholic tradition” (p. 91).

References:

- *The Canon Law: Letter and Spirit*, Canon Law Society of Great Britain and Ireland, Collegeville, MN, Liturgical Press
- *The Code of Canon Law* (Latin-English Edition). Washington, D.C. Canon Law Society of America, 1983
- Congregation for Bishops, *Directory on the Pastoral Ministry of Bishops*, May 31, 1973. Ottawa: Canadian Catholic Conference, 1974
- Coriden, James A., *The Parish in Catholic Tradition: History, theology and Canon Law*, Mahwah, NJ, Paulist Press
- *Diocesan Efforts at Parish Reorganization*, Clearwater FL: Conference for Pastoral Planning and Council Development, 1995
- John Paul II, *Apostolic Constitution Pastor Bonus* (on the Roman Curia), June 28, 1988. Published as an appendix in the Code of Canon Law Annotated. Montreal: Wilson & Lafleur Ltd., 1993, pp. 1166-1279
- Provost, J., *Parish Membership – Who Gets Counted? The Priest*, July-August 1980, 30-38

- 1/ Save Our Parish Community is a project of FutureChurch, 17307 Madison Ave., Lakewood, OH 44107.

