

## EMINENT DOMAIN

### Eminent Domain: Exercise of Religious Freedoms

*Christian Romany Church Ministries, Inc. v.  
Broward County,*  
980 So. 2d 1164 (Fla. 4th Dist. App. 2008)

An eminent domain action to take a church property is not a violation of the Florida Religious Freedom Restoration Act when there is a reasonable necessity for the taking and the condemnee fails to show that the taking is a substantial burden on the free exercise of religion.

#### FACTS AND PROCEDURAL HISTORY

Broward County (County) sought to condemn a parcel owned by Christian Romany Church Ministries, Inc. (Church) for the expansion of a county-operated substance abuse facility that would require the Church's relocation. The County rejected alternative sites and found the Church's property desirable because of its central location, its accessibility to public transportation, and its proximity to other social services and a medical center.

The Church challenged the taking, alleging that the County failed to show a reasonable necessity for the taking and that the taking violated the Florida Religious Freedom Restoration Act (FRFRA). Moreover, the Church argued that the taking imposed a substantial burden because it had no alternative location for church services and religious education. The trial court rejected the Church's arguments and issued an order of taking. The Fourth District Court of Appeal affirmed, holding that there was reasonable necessity for the taking and that there was no FRFRA violation.

#### ANALYSIS

The FRFRA, contained in Section 761 of the Florida Statutes, was enacted to protect the free exercise of religion rights in Florida. Claimants under FRFRA must demonstrate that the government has substantially burdened their free exercise of religion. In *Warner v. City of Boca Raton*, the Florida Supreme Court explained that a substantial burden under FRFRA either compels

religious adherents to engage in conduct that their religion forbids, or one that prohibits them from engaging in conduct that their religion requires. 887 So. 2d 1023, 1033 (Fla. 2004). The Church in *Romany* asserted that the taking would prevent the congregation from exercising its religion in violation of FRFRA.

The Fourth District articulated a three-step inquiry to consider FRFRA claims in eminent domain proceedings. First, the state must show a reasonable necessity for the taking. Second, if the state shows a reasonable necessity, the property owner must show that the taking is a substantial burden on its exercise of religion. Finally, if the property owner shows a substantial burden under the *Warner* test, the state must show the taking is the least restrictive means of furthering a compelling state interest.

After determining the trial court did not err in finding a reasonable necessity for the taking, the Fourth District used the *Warner* test to determine whether the taking was a substantial burden on the Church congregation's exercise of religion. The court rejected the Church's assertion that taking a specific church property was an FRFRA violation, explaining that "the church's insistence that a specific church building for holding worship services is fundamental to religious exercise under the statute is unpersuasive." *Romany*, 980 So. 2d at 1168. The court held that there was no FRFRA violation because nothing about the building was unique or integral to conducting religion and the church was free to relocate elsewhere. Accordingly, it was unnecessary for the court to reach the third prong of the FRFRA analysis.

#### SIGNIFICANCE

*Romany* is the first case to consider whether FRFRA claims may be asserted in eminent domain proceedings. It provides the process by which a FRFRA violation may be asserted, further demonstrates that the *Warner* test is applicable to taking church properties, and signals that no FRFRA violation exists when nothing about the property is unique or integral to the exercise of religion.

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RESEARCH REFERENCES

- 10A Fla. Jur. 2d *Constitutional Law* § 287.
- 21 Fla. Jur. 2d *Eminent Domain* § 59.

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