

Pastor's Perspective: Navigating Through Lawsuits, Land Disputes

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Since 2000 the Carlinville Southern Baptist Church, in a small, relatively unchanged community in rural Illinois, has grown from 90 to around 400 in our Sunday morning worship attendance. As we continued to grow numerically, we outgrew every area of our building (13,500 square feet) and property (5.22 acres).

As with most church growth stories, there were the normal growing pains associated with change. But the best part of our story is that 83 percent of those we have reached were either unchurched or dechurched before attending. Yeah God!

Early in our growth process, we were able to manage space constraints by purchasing more chairs, increasing our parking lot and moving classes around to accommodate the various age groups. But within a couple years, it was obvious we were going to need to build. At that point we developed the Property Development Team (PDT), which was tasked with looking at all possible options for future expansion. Among the options the PDT examined to accommodate our growth were various building options on our current property, relocation to farmland, and so on. We left no option unexplored.

The Wal-Mart Option and the Resulting Litigation

On Labor Day weekend of 2005, our church family came together for a special team meeting (business meeting) for the sole purpose of placing a contract offer on the Wal-Mart building in our community that had been officially on the market for more than six months.

Wal-Mart was asking \$672,000 for its 60,000 square-foot building. In terms of cost per square foot, we could not find a better deal anywhere else. It is also important to understand that after more six months of heavy marketing from Wal-Mart Realty, Wal-Mart had received zero offers on this property. After a unanimous vote to move forward, we made an offer.

Our church family was so excited when Wal-Mart accepted our offer. Wal-Mart was still using the building while preparing to build a new Super Center, so we could not close on the property until January 2008, but we began to plan and work toward actually taking possession.

Though we thought the transition to a new home would be smooth, it wasn't. ...

We had to solicit help from attorneys as the city council of our community would make the choices they made to proactively change the zoning ordinances, changes that specifically targeted us and forced us to begin litigation. It was a draining process, but one that ultimately reached a mutual solution. (See sidebar for timeline of the Carlinville Southern proceedings.)

Lessons We Learned

Here are 10 bits of advice I offer after experiencing the challenges of being in a legal dispute during a building process.

1. Know why you're building, why you're litigating, and be sure your people know why.

Let me cut to the chase: "Why" is not about a building; "Why" is about being a place of hope and restoration for the undecided masses. "Why" is about creating more space so you can increase your redemptive potential. "Why" is about changing lives, restoring marriages, transforming users, and mending broken lives. "Why" is about partnering with God to accomplish something bigger than ourselves, something truly God-sized and of eternal value. "Why" is about laying the foundation for a future of reaching people, improving lives in our community, and providing a safe place where people are welcomed, friendships are built, and a sense of true community is realized.

You must settle the "why" question before launching out on the litigation highway. When the wind is blowing and the storms are raging, you have to know "why" you are in the battle. And the "why" has to be something worth pain.

2. Be sure you have a great team.

Litigation is not a road meant to be walked alone. Our PDT managed so much pressure. You have to have people around you that will support you and persevere with you. The church as a whole is a team, also. If your church is not unified and strong spiritually, then I would be very cautious with litigation. Satan will take every opportunity to create confusion and division.

Your legal team must be Christ-like, yet strong. We wanted attorneys that in the heat of battle would reflect us and Christ well. We were blessed with our legal team. We began with a local attorney, and then as litigation heated up, our local counsel David connected us with a firm that specializes in religious land disputes nationwide. Our new attorney brought so much experience to the table, along with a servant heart, so it was easy for us to trust him and follow his leadership.

3. Be prepared for the unexpected.

Only God knows what tomorrow holds. It doesn't matter how educated you are, how experienced you are or how spiritual you are, things will happen during litigation that catch you off-guard. The stress level will surprise you. The people who turn on you will surprise you. How far your opponent is willing to go will surprise you. The decisions judges make will surprise you. The number of people who have time to make hateful comments via Internet articles will surprise you. How fast the legal fees add up will surprise you. How many meetings, e-mails and phone calls are required will surprise you. Expect the unexpected.

4. Communicate! Communicate! Communicate!

Communication makes the world go 'round. During the litigation process, there will be things you simply cannot discuss with your church family. But communicate why you cannot discuss those details, and ask for their trust. Be as open and transparent as you can, even when not revealing specific details. We kept telling our church family that we did not have any secrets, but there were some things our attorney has asked us not to discuss for legal and confidentially reasons.

5. People will hurt you.

You will be disappointed by how people, both friend and foe, respond to the stress and pressure of litigation. Scripture says, "We wrestle not with flesh and blood, but with powers, principalities and rulers in high places" (Ephesians 6:12). Your battle is not with the people who disappoint you, hurt you and hurt the church. There will be gossip and outright attacks. But again, your battle is not with the "flesh and blood" that hurt you. It's with the "powers, principalities and rulers in high places."

6. Choose to forgive before you are offended.

Jesus' request, "Father, forgive them, for they do not know what they are doing" (Luke 23:34) will make more sense and mean much more to you after litigation is over. The clear biblical expectation is that we "forgive others, as God, though Christ Jesus, forgave us." Before entering litigation, resolve that you will be hurt and offended and, therefore, choose to forgive even before the offense occurs. Harboring unforgiveness will only work against the work of Holy Spirit in and through you. Vengeance belongs to God alone – besides, Scripture also says that being kind to your enemies is like heaping hot coals upon their heads (Proverbs

25:22).

7. Do not ride the drama roller coaster.

The emotions and drama of litigation are like riding a roller coaster. You should not ride, your team should not ride, and together, you and your team should protect your church family from riding the emotional, drama-filled roller coaster of litigation. Remember your mission as a disciple and what's really important: serving him and others.

8. Don't feed the piranha.

When you step into piranha-infested water, the small fish will swarm and tear your flesh apart. "Don't feed the piranhas" was a phrase I used to encourage people to not engage negative people. One of the places piranha flourish is on the comment sections below online news articles. Some people seem to have nothing more important to do than make anonymous negative comments. Your church family's positive comments or arguing with the negative comments falls into piranha's trap. They want to swarm and tear you apart from behind the cloak of anonymity.

9. The journey matters.

James says, "Perseverance must complete its work, so we become mature and lack nothing" (James 1:2-4). We all want to obtain spiritual maturity, but no one wants to "persevere". The types of journeys that require perseverance are always difficult.

10. Choose humility.

Personhood is more important than winning. Paul wrote to the Phillipians that we are able to "have the same attitude as that of Christ Jesus, who saw equality with God as not something to be grasped, but humbled himself and took on the very nature of a servant." ...

Remember "why." "Why" is not about you, your pride or winning. "Why" is about Jesus. "Why" requires humility, surrender and sacrifice. Your flesh will get stirred up. If you are carrying wounds from your past, litigation will "push your buttons" because of all the injustice you will experience. We adopted an attitude statement to help us: "Whatever is asked, whatever it takes, for as long as it takes, all for Christ alone!"

Where We Are Today

During litigation we lost our construction loan and spent all of our building fund money. But God has proved faithful over and over again. Our church is still reaching unchurched and dechurched people, we are financially stable, and we have maintained our unity. We have some financial regrouping to do before we continue with construction. However, we are driven by a sense of purpose and a compelling vision to see lives transformed by the power of Christ. As you see, it is not just about a building to us. It is about life-transforming ministry and the limitless possibilities to see God meet unlimited needs.

We are willing to surrender, willing to sacrifice, willing to dream big, and willing to make a difference in the people of our community and beyond that will last for all of eternity. Our heart is to truly be a place of hope and restoration for the undecided masses.

Litigation was hard. But we remained healthy and stable. We are stronger and more committed than ever. We would love it if you would be willing to pray for us as we continue to persevere. As Ephesians 3:20-21 says, "Now to him who is able to do immeasurably more than all we ask or imagine, according to his power that is at work within us, to him be glory in the church and in Christ Jesus throughout all generations, forever and ever! Amen."

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SIDEBAR: Carlinville Southern Dispute and Litigation Timeline

Sept. 13, 2005

CSBC executes a contract for purchase of the Wal-Mart premises, with an indefinite closing date to be set at the discretion of Wal-Mart. The premises were zoned under the C-1 Neighborhood Commercial zoning designation, which allowed the church to be permitted. Subsequently, the city learned of the church's intentions and changed the C-1 designation to exclude churches.

Dec. 13, 2007

Pastor Tim Rhodus applies to the City of Carlinville for rezoning of the property from the C-1 commercial zoning designation to the R zoning designation to allow the use of the property for religious purposes.

Jan. 4, 2008

The church notifies the City of Carlinville through the city attorney of the incongruity of the uses permitted by the zoning ordinance and that the ordinance violated the Religious Land Use and Institutionalized Persons Act (RLUIPA), a federal law enacted in 2000.

Jan. 16, 2008

The Carlinville Planning/Zoning Commissions holds a public meeting and recommends to the city council a denial of the rezoning request. Later in January, the city council unanimously denied the request for rezoning. The mayor of Carlinville indicated that loss of tax revenue was the key reason for denial. He affirmed this again when addressing the Carlinville Chamber of Commerce.

March 18, 2008

CSBC files a federal lawsuit, along with a motion for a temporary restraining order, or in the alternative, a preliminary injunction to preclude the city from interfering with the lawful uses of the building under the C-1 district. Acknowledging its error in violating the civil rights of the church, the city stipulated to an order allowing the church to enter, occupy and renovate the property provided that the use complies with the C-1 Neighborhood Commercial zoning designation.

March – December 2008: Proceedings

After securing the injunctive order, the city asked the church to mediate the remainder of the dispute. The church agreed and appeared at two separate sessions with the magistrate. The parties reached a settlement that was subject to city council approval. The city council approved, but the mayor, who appeared at the mediation and approved the settlement, vetoed it. The council failed to override the veto at its next meeting and the case went back into litigation. After months of negotiations and discovery, the parties then came to a general understanding of a settlement.

Dec. 17, 2008

The settlement between the church and the city is announced. CSBC obtains the right to use the former Wal-Mart for religious services. The church also receives \$125,000 to offset legal expenses. The city receives an easement for land adjacent to the church and also maintains the right of first refusal should CSBC choose to sell the building.

Information contributed by Dan Dalton, attorney for Carlinville Southern and founding member at the Royal Oak, Mich., law firm Tomkiw Dalton plc. Contact Dalton by visiting the firm's Web site: www.tomkiwdalton.com.