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The Rainbow Times

Gay Couple Sues Worcester Catholic Diocese, Alleging Discrimination

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Also known as Affirmation House, the Oakhurst Conference and Retreat Center, located at 120 Hill Street, Northridge, Mass.

By: Chuck Colbert /TRT Reporter–

A married gay male couple from Sutton, Massachusetts, is suing the Worcester Catholic diocese, alleging sexual orientation discrimination in their attempt to purchase a church property.

Outside Worcester Superior Court on Monday morning, Sept. 10, Sergio Carvajal, an attorney for the two men, Alain Beret, 59, and James Fairbanks, 57, told reporters that in addition to his clients sexual orientation, the diocese backed out of selling the property “in the belief” the couple “would hold gay marriages, ceremonies at the property known as Oakhurst, located in Northbridge.”

The diocese denies the allegations and contends the couple lacked sufficient financing.

“At all times were Mr. Beret and Mr. Fairbanks qualified buyers of the property,” said Carvajal.

The initial asking price for the property, Oakhurst Conference and Retreat Center, located at 120 Hill Street, Northridge, Mass. was \$1.4 million, but was negotiated down to \$1 million.

Financing not a problem

Beret and Fairbanks signed a purchase and sale agreement on May 18, along with a deposit of \$75,000. An inspection of the property, however, revealed substantial repair work would be required to bring the property into compliance with current codes, including a new \$240,000 sprinkler system.

The diocese’s broker suggested that the two men make a smaller counter offer of \$550,000 for the mansion and only six acres of land instead of the entire 24 acres.

“Financing was not an issue,” said Beret. “I’d love to know which bank turned me down.”

Gay marriages seem to have been the issue

"I would remind the monsignor," Beret continued, "to read his email where he said because of the potential for gay marriages [at Oakhurst] we don't want to continue with these buyers."

Beret was referring to e-mail correspondence from the Reverend Monsignor Thomas J. Sullivan to the diocesan broker, which reads: "I just went down the hall and discussed it with the bishop," Sullivan wrote. "Because of the potentiality of gay marriages there, something you shared with us yesterday, we are not interested in going forwards with these buyers. I think they are shaky anyway. So just tell them that we will not accept their revised plan and the Diocese is making new plans for the property. You find the language."

The e-mail is dated June 8, 2012.



Outside Worcester Superior Court, left to right, Attorney Sergio E. Carvajal, plaintiff couple, Alain Beret and James Fairbanks. The married gay male couple is suing the Worcester diocese, alleging sexual orientation discrimination in property purchase dispute.

Photo credit: Chuck Colbert

Beret and Fairbanks are uncertain how the topic of their sexual orientation or gay weddings came to the attention of the church officials.

"They must have assumed, or were told, that we were gay and therefore we would be gay magnets," Beret said.

"Let's be clear, he explained. There was never, ever a discussion about gay marriage, not even between Jim and me or anyone else. We never thought in terms of gay marriage," rather "all marriages. When you are running a business, whoever is willing to come to your business is welcome."

Denial of alleged discrimination, but ...

"We never had any intention of discriminating against anyone or focusing our business on one community. That was never on our minds, never discussed. How it came to the monsignor's ear. That is a question for others," said Beret.

Beret and Fairbanks consider Sullivan's email to be a smoking-gun indicator of the diocese's discriminatory intentions and actions.

Their lawsuit contends as much. In a four-part civil complaint, they charge the defendants with discrimination in violation of Massachusetts General Laws, Chapter 15B.

State fair housing laws bans discrimination on the basis of sexual orientation and other protected classes such as race, gender, and religion. The laws apply to the sale and rental of housing and commercial properties.

As Gregory Vasil, who heads the Greater Boston Real Estate Board, told the Boston Globe, the Worcester diocese is “subject to the law like anyone else.”

Plaintiffs’ lawsuit seeks as of yet unspecified compensatory and punitive damages, compensation for attorneys’ fees and costs, “and any other relief this court deems just and equitable” in a trial by jury.

Discrimination is discrimination

“Discrimination against a person who is gay is no different than discrimination against a person who is black, Latino, Jewish, or female,” said attorney Carvajal. “It’s wrong, and it is illegal.”

In addition to Msgr. Sullivan, other defendants named in the suit include Worcester’s bishop, the Most Reverend Robert J. McManus; the House of Affirmation, Inc.; Eastern Alliance Realty, LCC, of Shrewsbury, selling agency for the property, and its principals LiSandra Rodriguez-Pagan and Angel Pagan.

The law firm of Carvajal & Nielsen, P.C., is representing plaintiffs Fairbanks and Beret, with the Massachusetts Fair Housing Center joining in filing the lawsuit.

A Worcester Telegram columnist broke the story earlier this summer.

Not selling to dishonor sacred memories of Catholics

More recently, Sullivan told the Boston Globe, that as a matter of church policy the Worcester diocese would not sell properties where Masses had been celebrated to people who plan to host same-sex weddings.

“We wouldn’t sell our churches and our properties to any number of things that would reflect badly on the church,” said Sullivan, quoted in the Globe, Sept. 10. “These buildings are sacred to the memories of Catholics.”

Sullivan’s comments suggest that canon law may well be behind the diocese’s decision not to sell to buyers who would allow same-sex marriage.

But comments from mail exchanges with two Catholic priests, both canon lawyers, dispute Sullivan’s contention.

Certain canons direct that “churches” cannot be relegated to sordid use and that, when disposing of property, “precautions prescribed by legitimate authority are to be observed to avoid harm to the church.”

Moral v. Canonical judgment

What may be at play even more is a matter a moral rather than canonical judgment, namely the cooperation or complicity in actions or uses which the church authority considers to be immoral, such as, for example, selling a house to a madam who is intent of making it a house of prostitution, or a drug dealer who wants to use it as a crack house.

In his assessment, Catholic priest and canon lawyer, the Reverend Thomas Doyle said, “There is no basis whatsoever in canon law” for the diocese’s suggestion it is prohibited by church policy from selling to buyers who may allow same-sex wedding celebrations.

“In the first place, the diocese’s action is pure discrimination based on their twisted concept of gay, as well as their condemnation about what may happen, not what has happened,” he said. “They have no right to condemn what has not happened.”

“Apart from that, canon law says that it is forbidden to use a sacred place for a profane use unless the place is de-sacralized by an act of the bishop or if they have been given over to secular uses either de facto or by decree,” Doyle explained.

“However, this applies to churches, chapels and shrines and not mansions that were used as therapy centers. In light of the scandal that arose out of then Houses of Affirmation they could hardly be called a “sacred place.””

Oakhurst past

Indeed Oakhurst, a 44-bedroom mansion, also known as House of Affirmation, was a treatment center for priests with psychological and psychosexual problems. Worcester priest, the Reverend Thomas A. Kane, founded it, and the House was in operation from 1973 to 1990, when it was closed after Kane was accused of financial improprieties. Kane was subsequently accused of sexual abuse, and allegations of sexual abuse at the Whitinsville, Massachusetts, facility then came to light, according to BishopAccountability.org, Inc., a Massachusetts non-profit, educational corporation.

One survivor of clerical sex abuse at Affirmation House from the 1970’s is Skip Shea of Uxbridge, Mass. “So much for sacred ground,” he said over the telephone.

“Why should a property that terrorized so many children become a place where couples should be allowed to publicly declare their love, devotion and commitment to each other? Because that would be ... What? Good? To me it sounds like a wonderful way to heal that space. A way to genuinely bless it,” added Shea, writing on his Outpatient Clinic BlogSpot.

The matter of canon law colliding with secular law — its potential for a church and state conflict and Catholic episcopal cries of religious liberties under siege — now rests with the court.

GLAD chimes in

Meanwhile, Boston-based Gay & Lesbian Advocates & Defenders (GLAD) issued a statement.

“Once you enter the world of commerce, you become another business selling property, and the same rules apply to you as everyone else. One of those rules is that you can’t refuse to sell for a discriminatory reason. The case filed turns on whether the sellers refused to sell the property because the buyers are gay (a discriminatory reason) or because the buyers offered only a third of the asking price,” said GLAD’s legal director Gary Buseck.

“No matter whom the property is sold to, it could be used for any number of things the sellers don’t approve of. Once a property is sold, only the new owners decide what happens with it,” he added.

“Presumably the diocese would also have a problem with the property becoming an inn, where unmarried couples might spend the night, or previously divorced couples might stay, or gay couples, married or unmarried,” said Buseck. “If a seller is very worried about how their property will be used once it is in the hands of a new owner, their best option, or really their only option, is just to retain the property.”

GLAD is not a party in the litigation.

A trial date has not yet been set.

But the allegedly discriminatory behavior of the Worcester diocese is already playing out in the court of public opinion among LGBT Catholics, locally and nationwide.

“Nothing in church teaching prohibits the sale,” said Francis DeBernardo, executive director of Mount Rainier, Maryland-based New Ways Ministry, a pro-LGBT group, advocating reconciliation and healing among gay Catholics, their families, friends and the church.

“The decision not to do so comes from the church representatives involved in the business negotiations, not from the official teaching of the church.

“The true scandal here is not the possibility of same-gender marriage taking place at the location but that church officials are negotiating in such a surreptitious way,” he said.

“This is a sad commentary on how warped the Church’s actions can get based on its teaching of both embracing LGBT people while at the same time promoting discrimination,” said Joe Murray of the Chicago-based Rainbow Sash Movement.

“Bishop McManus of Worcester obviously lacks any form of integrity when it comes to standing publicly with the church’s teaching,” added Murray.

Hands caught in cookie jar?

“This is case of the bishops’ hands being caught in the cookie jar, and he thinks he can hide from the facts of the email that backs the claim of two gay men that they were discriminated against,” said Murray.

“Church attitudes of prejudice and unjustified fear against gay people have been brought into the light through Monsignor Sullivan’s email, exposing how apparently pervasive these attitudes still linger for the bishop and other church officials,” said Charles Martel, president of Catholics for Marriage Equality. “Will it never end?”

Discrimination in the name of “religious freedom”?

“I guarantee you that, in keeping with recent history, the Catholic Church will, in this case, assert a non-existent ‘right’ to violate state law in the name of ‘religious freedom,’” said John Becker, a spokesperson for Burlington, Vermont-based Truth Wins Out (TWO), said, writing on the organization’s blog.

Truth Wins Out is a non-profit organization that fights anti-gay religious extremism.

“If there’s any justice left in the American judicial system, that spurious argument will be smacked down by the courts. In a democracy, people can’t pick and choose which statutes they wish to follow. In a democracy, religious freedom cannot give churches a special ‘right’ to bully disfavored minorities in the public square. And in a democracy, no one is above the law. Not even the church,” said Becker.

Plaintiff Beret voiced similar sentiments. “If you want to talk from your pulpit that you are against gay marriage, you have that right. This is America,” he said.

“But you don’t have the right to chase me down the street with that. I am not your congregant, and you have no right to impose that [view] on the public in general. You are talking about a secular state sanctioned transaction, which is legal and which is an attempt to live a dignified life,” said Beret, referring to same-sex civil marriage.

Same-sex marriage, he added, is an “ultimate dignity.”

Although both men are disappointed, Fairbanks said they “have emotionally let go of the property.”

“This was a facility that we were extremely interested in,” he explained at the press conference. “We have made our life restoring old historic buildings. This would have been our third one.”

The couple, he said, has been in the hospitality business for 25 to 30 years, doing weddings, showers anniversary parties, among other events.

Beret said that his real estate agent told him Oakhurst is “under agreement.”

Attempts to verify the status of the property through Eastern Alliance Realty’s broker and Principal Rodriguez-Pagan, her legal counsel, and a lawyer for the diocese were unsuccessful.