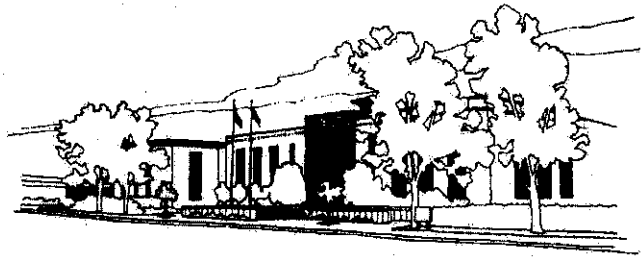


**City of San Leandro**

Civic Center, 835 E. 14th Street  
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**SAN LEANDRO  
NEWS**

**FOR IMMEDIATE RELEASE**  
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***City of San Leandro and  
International Church of Four Square Gospel Resolve Lawsuit***

***Settlement Preserves Important Zoning Provisions and Represents Approximately 10% Of  
Total Damages Sought By ICFG***

Mayor Stephen Cassidy announced that the City of San Leandro and International Church of Four Square Gospel (ICFG) have reached a settlement in ICFG's lawsuit against the City for its refusal to allow Faith Fellowship Church to relocate its church campus to a site within the City's high tech industrial core. The City denied the Church's application on the basis that the use of the site for assembly purposes violated the City's zoning code.

Under the settlement, the City admits no liability and ICFG dismisses all claims against the City in return for a \$2.3 million payment. Further, the City preserves its general plan and zoning provisions while ICFG may continue in its efforts to find a new properly zoned site. The settlement bars ICFG from challenging under the Religious Land Use and Institutional Persons Act (RLUIPA), any denial of the purchase of a site not within the City's current Assembly Use Overlay or Residential Zones.

"The City respects all of our churches and religious institutions, including Faith Fellowship Church and ICFG, and appreciates the important charitable activities and social work they provide our community," stated Mayor Cassidy. "The settlement with ICFG brings to an end costly and time-consuming litigation while upholding the sections of our zoning code that reserve land for industrial and commercial uses."

“Earlier this year, our City Attorney succeeded in convincing the Court to throw out ICFG’s claim for \$14 million in damages due to purportedly lost contributions the Church would have received had it been allowed to relocate to the industrial zone,” Mayor Cassidy added. “The City had a strong defense on ICFG’s RLUIPA claim. However, trials are inherently unpredictable. Had the City lost, the Church’s remaining damages plus legal fees could have exceeded \$7 million. Settling the case now was the prudent course of action.”

The City’s special legal counsel and nationally recognized RLUIPA expert, Professor Marci Hamilton stated: “RLUIPA unfairly puts cities between a rock and hard place. This is a very strong case for the city, but in the current economic climate it is very difficult for cities like San Leandro to pursue federal litigation. With the property sold and the General Plan protected, settlement at this stage is sensible.”

The \$2.3 million settlement payment to ICFG would be made from the City’s self-insurance fund and reserve account as the City’s insurance policies do not cover zoning code disputes. Sufficient amounts have been budgeted to satisfy the settlement.

#### Background on the Litigation

In 2006, Faith Fellowship Church purchased a property in the City’s industrial area that was not zoned for a religious assembly use. In an effort to expand the opportunities for churches, the City undertook a City-wide zoning study and ultimately adopted a new Assembly Use Overlay District which allowed churches and other assembly uses to locate, with a Conditional Use Permit, on 196 parcels in the City’s industrial and commercial zones where they had not previously been allowed. The City applied the same eight objective planning criteria to all commercial and industrial zoned property in the City to identify the 196 sites – the Faith Fellowship Church site did not meet two of the criteria and so was not included in the final list. In May 2007, the City denied Faith Fellowship Church’s application for a rezoning of the property. The Church sold the industrial zoned property in 2010 at a loss.

In June 2007, ICFG and Faith Fellowship Church filed suit in federal court in San Francisco against the City alleging that the denial of the rezoning application violated the Religious Land Use and Institutional Persons Act (RLUIPA), Civil Rights Act and First Amendment.

In December 2008, U.S. District Court Judge Phyllis Hamilton granted the City's motion for summary judgment and dismissed the lawsuit. The Court concluded that the denial of the rezoning application did not violate RLUIPA. The Church appealed to the U. S. Ninth Circuit Court of Appeal.

In April 2011, the Appellate Court reversed Judge Hamilton, holding that a triable issue existed as to whether the City's denial of the rezoning application constituted a substantial burden on the church's exercise of religion in violation of RLUIPA.

Faith Fellowship alleged that it had been damaged by the City's actions in excess of \$20 million, which included lost contributions amounting to \$14 million. On August 20, 2012, upon a motion by the City, Judge Hamilton dismissed the church's lost contribution claim of \$14 million. The Church's remaining damages claim was based on its loss on the sale of the property, carrying costs, and other expenses related to purchase and sale, along with significant attorneys' fees.

The City contended that the church's damages, if at all, were caused by the church's decision to eliminate the contractual provision that would have protected the purchase if the City did not approve the zoning change request. The church's decision to purchase the property outright with full knowledge that the City's zoning regulations precluded religious uses led to any damages it suffered. The City expanded religious uses and applied its neutral, generally applicable laws to the church in denying the application.

The City and ICFG/Faith Fellowship Church, each facing the escalating cost of a lengthy and complex trial, extended appeals, and an unsettled and still evolving RLUIPA law, were ordered by Judge Hamilton to a settlement conference. Under the guidance of U.S. Magistrate Judge Corley the parties successfully resolved the matter, contingent upon City Council approval. Without admitting liability, the City Council approved the payment of \$2.3 million to resolve and release all claims by ICFG against the City.

### About San Leandro

A diverse community of nearly 85,000 residents, San Leandro maintains a safe, small town feel while offering a wide range of shopping, dining, recreation amenities, miles of shoreline, and easy access to nearby regional parks and nature areas.

Located in the center of the San Francisco Bay Area, San Leandro enjoys close proximity to the Oakland International Airport and Port of Oakland, and is served by two major freeways and two BART stations. Through a public-private partnership known as Lit San Leandro, an eleven-mile fiber optic loop is under construction in the city's large industrial and commercial zone. Lit San Leandro will assist a new set of businesses to leverage San Leandro's assets and become industry leaders in the data revolution. Further information about Lit San Leandro can be found at <http://www.litsanleandro.com/>

Visit the City's website at [www.sanleandro.org](http://www.sanleandro.org) for more information on the City's programs and services. To register to automatically receive press releases, meeting agendas or other electronic notifications, go to <http://www.sanleandro.org/portal/default.asp>.

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