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ZONING ORDINANCES AND RELIGIOUS MEN AND WOMEN

BERNADETTE KENNY, RSHM*

INTRODUCTION

While municipal zoning ordinances may subject churches to reasonable regulations respecting location,\(^1\) setbacks and off-street parking,\(^2\) they may not preclude completely the existence of a church.\(^3\) Although this

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1 See Note, Churches and Zoning, 70 HARV. L. REV. 1428, 1436 (1957).


3 See, e.g., Mooney v. Village of Orchard Lake, 333 Mich. 389, 394, 53 N.W.2d 308, 310 (1952) (ordinance excluding churches and parochial schools from 90% of village is not legitimate exercise of police power); North Shore Unitarian Soc'y, Inc. v. Village of Plandome, 200 Misc. 524, 525, 109 N.Y.S.2d 803, 804 (Sup. Ct. Nassau County 1951) (churches not constitutionally excludable from entire village when other non-residential uses permitted); Simms v. City of Sherman, 181 S.W.2d 100, 103 (Tex. Civ. App.) (unconstitutional to exclude churches as a class without substantial relation to health, safety or welfare), aff'd, 143 Tex. 115, 119-20, 183 S.W.2d 415, 417 (1944); see 44 FORDHAM L. REV. 1245, 1250 (1976).

The free exercise clause of the first amendment often has precipitated a finding that a particular zoning ordinance has violated the protected realm of religious belief. Walker, What Constitutes a Religious Use for Zoning Purposes?, 27 CATH. L. 129, 130 n.2 (1982);
principle is fairly well established, the courts have not defined clearly what constitutes a church or church use of property for purposes of municipal zoning ordinances. Thus, when groups claiming a religious bond among the members attempt to move into an area zoned for single-family residence, the question arises as to whether these groups meet either the statutory definition or the popular understanding of either church or family.

Among the groups that find themselves caught between the definitions of church and family when attempting to rent or purchase a home in a single-family area are the men and women of Roman Catholic reli-


* See, e.g., Association for Educ. Dev. v. Hayward, 533 S.W.2d 579, 586 (Mo. 1976) (en banc) ("rectory" is a residence for unrelated persons with religious vocations); Sexton v. Bates, 17 N.J. Super. 246, 255, 85 A.2d 833, 837-38 (1951) (ritualistic bathing place for Hebrew females held not to be a "place where persons regularly assemble for worship"), aff'd sub nom. Sexton v. Essex County Ritualarium, 21 N.J. Super. 329, 329, 91 A.2d 162, 162 (1952); In re Russian Orthodox Church, 397 Pa. 126, 129, 152 A.2d 489, 491 (1959) (cemetery is not a religious use and is subject to ordinance); Gallagher v. Zoning Bd. of Adjustment, 32 Pa. D. & C. 669, 673-74 (1963) (radio church for profit is not religious use). See generally Curry, Zoning and Religion in Connecticut, 40 Conn. B.J. 1, 6 (1966) (courts are not well adapted to balancing the theological aspects of religious zoning); Walker, supra note 3, at 182 (noting wide range of judicial opinion as to what constitutes "religious use"); Vernon, Zoning for Churches, 13 HASTINGS L.J. 367, 373 (1962) (reasonable minds may differ when balancing physical undesirability against social value).

* The difficulties encountered by a group of nuns in northern New Jersey illustrate the problem. See N.Y. Times, Jan. 24, 1976, at A31, col. 6. On New Year's Eve, 1975, the Borough Council of Glen Ridge, New Jersey, filed charges against five Roman Catholic nuns for violations of the single-family zoning ordinance. The ordinance permitted only families related by blood, marriage or adoption to live in the district. The charges carried a potential fine of $20,000 for each sister. Two days before the nuns were due to appear in court, the Borough Council decided to drop the charges and review its zoning ordinance, which dated from 1921. N.Y. Times, Feb. 16, 1976, at A23, col. 7.

In complaining about the resulting negative publicity accorded the Borough Council, the mayor noted that he was simply enforcing the law. No one, he said, would have complained if he had enforced the law against a group of hippies who regularly conducted wild parties. By the mayor's own admission, the nuns did not fit the category of people that zoning ordinances based on relationship are designed to exclude. Although the nuns argued that they were related by their religious vows, they did not fit the literal terms of the ordinance. N.Y. Times, Jan. 24, 1976, at A31, col. 6.
gious congregations. Because of the great external changes that have taken place in religious congregations since Vatican II—particularly, the movement from large institutional accommodations to small group living in apartments or one-family homes—traditional definitions now appear inadequate. This Article will examine some of the cases dealing with Roman Catholic and other religious groups that have come into conflict with local zoning ordinances and will examine how the courts define members of religious congregations for purposes of zoning ordinances.

ZONING TO FOSTER “FAMILY” VALUES

Zoning ordinances are municipal regulations that restrict the use of land in order to promote the health, welfare, and morals of those who live and work within the municipality. Such regulations, implemented under the police power of the state, are outgrowths of the common law of nuisance. Rarely do courts hold that an ordinance operating against a church has a substantial relation to the health, welfare, and morals of the community. Such regulations, implemented under the police power of the state, are outgrowths of the common law of nuisance. During the age of rapid industrialization of urban areas, homeowners were surrounded by plants and factories that produced caustic

* See, e.g., Holy Name Hospital v. Montroy, 153 N.J. Super. 181, 182-83, 379 A.2d 299, 300 (1977) (group of nuns charged with violation of ordinance prohibiting more than three unrelated individuals from living together).

7 Of the 711 residences of religious in the Archdiocese of New York, 42.5% are apartments in multiple dwellings or one or two-family homes. The remaining 57.5% are traditional convents (57.4%) and institutional-type residences (.1%). Statistics from Vicar for Religious, Archdiocese of New York.

8 Rarely do courts hold that an ordinance operating against a church has a substantial relation to the health, welfare, and morals of the community. Zoning and the Exclusion of Churches, 5 CATH. LAW. 252, 253 (1959); see Board of Zoning Appeals v. Company of Jehovah's Witnesses, 233 Ind. 83, 88-89, 117 N.E.2d 115, 118 (1954) (building of churches subject to regulations that promote public health, safety, or the general welfare); Mooney v. Village of Orchard Lake, 333 Mich. 389, 393, 53 N.W.2d 308, 309 (1952) (test of legitimacy is substantial relationship to public health, safety and morals); Simms v. City of Sherman, 181 S.W.2d 100, 103 (Tex. Civ. App.) (exclusion of church as a class was unreasonable as it bore no substantial relation to the health, welfare, and morals of the residents), aff'd, 143 Tex. 115, 183 S.W.2d 415 (1944); see also 1 R. ANDERSON, AMERICAN LAW OF ZONING 2d § 1.14 (1976) (purpose of zoning is to provide a comprehensive public scheme to avoid injurious misuse of land). In the event that the court is caught in the battle between the right to free exercise of religion and the need to protect the public health and welfare, the court must accommodate both interests. See Walker, supra note 3, at 181.

* While zoning originated in the law of nuisance, it is not restricted to harmful uses of property. See Jones v. City of Los Angeles, 211 Cal. 304, 307, 295 P. 14, 16 (1931). The first zoning ordinances were enacted in this country in New York and the District of Columbia prior to 1921. See P. ROHAN, ZONING AND LAND USE CONTROLS, § 1.02[2][a], at 1-8. In 1926, the Supreme Court decided the landmark case of City of Euclid v. Ambler Realty Co., 272 U.S. 365 (1926), and held that comprehensive zoning ordinances are satisfactory exercises of the police power of the state and are not unlawful deprivations of property under the Constitution. Id. at 388-89; see McMahon v. City of Dubuque, 255 F.2d 154, 160 (8th Cir.), cert. denied, 358 U.S. 833 (1958); New York Inst. of Technology, Inc. v. LeBoutillier, 33 N.Y.2d 125, 130, 305 N.E.2d 754, 757, 350 N.Y.S.2d 623, 628 (1973).
and noxious fumes, excessive noise, traffic, and structures that cut off all access to light. Zoning ordinances were an attempt to alleviate this problem. By limiting what a landowner can do with his property in a particular section of town, the ordinances, in effect, designated what constitutes a nuisance in that particular sector. Thus, for the greater good of all, the state determined which uses of property had priority in a given area.

The single-family zoning ordinance is the restriction most often utilized to preserve an environment that is conducive to the development of the family within the community. This view was articulated by the Supreme Court in Village of Belle Terre v. Boraas, in which the Court held that a state may, through its police power, place reasonable restraints upon the number of unrelated individuals living together in the same household. Recognizing the importance of an environment that is conducive to the development of the individual and the family, the Belle Terre Court acknowledged the power of the state affirmatively to protect such interests. As a result, many subsequent zoning cases involving reli-

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10 See E. Bassett, Zoning: The Laws, Administration, and Court Decisions During the First Twenty Years 23-26 (1936). The rapid growth of New York City called for the imposition of zoning ordinances on height, area, building use, and land use. Id.; see 1 N. Williams, American Land Planning Law §§ 35.01-.05 (1974). For a discussion of the specific zoning purposes of adequate light and air, limited land use density, fire hazards and street congestion, see 5 P. Rohan, supra note 9, §§ 34.02[1][a], [b], 34.02[2][a].

11 See T. Curry, Public Regulation of the Religious Use of Land 5 (1964). While the wealthy landowner could join with his neighbors in a restrictive covenant to protect his property against the invasion of industrialization, the poor were without such recourse. Id. The restrictive covenant, however, could only act on singularized plots rather than on a whole area, making it difficult to provide the benefits of land-use control to the entire community. See 5 N. Williams, supra note 10, § 154.13, at 253. In order to alleviate this problem, as the zoning ordinance developed, local governments attempted to use the principles of the restrictive covenant on a broader base. See Note, Restrictive Covenants as a Device to Control Religious Issues, 12 Syracuse L. Rev. 347, 347 (1961). One author has suggested a return to the use of restrictive covenants in dealing with religious questions. Id. at 351-52. Under a restrictive covenant analysis, however, courts would be bound to exclude churches under certain restrictions without even addressing the relation to the general welfare. See id. at 348-49, (citing Evangelical Lutheran Church of the Ascension v. Sahlem, 254 N.Y. 161, 168-69, 172 N.E. 455, 457-58 (1930)); Cromwell v. American Bible Soc'y, 202 App. Div. 625, 632-35, 195 N.Y.S. 217, 224-25 (1st Dep't 1922).


15 Id. at 8-10.

16 The Court stated that it would not question the appropriateness of the ability of the Legislature to designate particular zones. Id. at 8. Indeed, the Court noted:

A quiet place where yards are wide, people few, and motor vehicles restricted are legitimate guidelines in a land-use project addressed to family needs. This goal is a
gious groups have turned upon the interpretation of the term "family."\(^{17}\)

**Canon Law Definition**

Before analyzing the judicial interpretation of the terms "family" and "single household unit" as they relate to ordinances, it is appropriate to consider the Church's attitude toward the religious who live in communal settings. Canon law defines the religious as those who live "a fixed or stable manner of life, in common, [where] the evangelical councils are observed by means of the vows of obedience, chastity and poverty."\(^{18}\) Underlying this definition are several assumptions. The religious who live in apostolic, as contrasted with monastic, congregations exist within a "publicly oriented" community. They are not recluses; they are subject to religious authority and are bound by vows to a permanent relationship with the congregation.\(^{19}\) While the constitutions of each congregation define, more or less specifically, how these underlying assumptions are to be car-

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Id. at 9.

\(^{17}\) See, e.g., State v. Baker, 81 N.J. 99, 103-05, 405 A.2d 388, 370 (1979) (nine persons from two or three biological families constitute a single housekeeping unit); Holy Name Hosp. v. Montroy, 153 N.J. Super. 181, 187, 379 A.2d 299, 302 (1977) (nuns included in exception to exclusion as harmless voluntary family); Taxpayer's Ass'n v. Weymouth Township, 71 N.J. 249, 270, 364 A.2d 1016, 1027 (1976) (elderly entitled to live together despite single-family restrictions). For the definition of family in municipal zoning ordinances, see generally, Jensen, *From Belle Terre to East Cleveland, Zoning, Family and the Right to Privacy*, 13 Fam. L.Q. 1, 4 (1979); Note, *Group House of Port Washington v. Board of Zoning and Appeals, Encroachment of Community Residences into Single-Family Districts*, 43 Alr. L. Rev. 539, 543 (1979); Comment, Moore v. City of East Cleveland—Zoning: Due Process and Restrictive Definitions of "Family", 6 Hofstra L. Rev. 1087, 1099-1100 (1978). Municipal zoning ordinances typically define "family" in terms of either a relationship based upon marriage, blood or adoption, or in the broader sense of a single housekeeping unit. See 2 A. Rathkoff & D. Rathkoff, *supra* note 13, at § 17A.03[a] (discussion of "family" defined by reference to biological relationship among household members); see also Moore v. City of East Cleveland, 431 U.S. 494, 496 n.2, 499 (1977) (ordinance defining "family" in terms of a single housekeeping unit held invalid because it based its definition on degree of affiliation among particular members of a family). The Moore Court stated that the Legislature cannot intrude into family decision-making without strong governmental interest. Id. at 499. As the restrictive single-family ordinance under consideration bore little relation to the government's interest in minimizing crowding in the city, it was held invalid. Id. at 499-500.


\(^{19}\) *See Canon Law, supra* note 18, at 233-35.
ried out in each congregation,\textsuperscript{20} communal living is, for the most part, an integral part of religious life.\textsuperscript{21}

Prior to the Second Vatican Council, the majority of religious were required to live in residences that were located in the same general area, if not the same building, as their workplace.\textsuperscript{22} These institutions were owned and staffed by a particular religious order and individual members were engaged in the same occupation as their religious counterparts.

Since Vatican II, however, a growing number of religious are living in small group arrangements.\textsuperscript{23} As a result, members of these institutions often have occupations independent of one another, and their residences, usually located some distance from the actual work place, are not owned by the religious order but are rented by the individual members of the congregation. It is evident, therefore, both that these events radically have redefined the concept of communal living among the religious, and that the present lifestyle of the religious more closely resembles that of a traditional family than a monastic or religious institutional lifestyle.

Because zoning ordinances do not specifically address the current trend among the religious to live within restricted areas as a single family, a conflict stems from the tendency of the community to characterize such living arrangements as inconsistent with traditional family lifestyles and from the erroneous presumption that the mere presence of a group of unrelated religious residing within the same structure transforms a single-family dwelling into an institution. The remainder of this Article will address judicial interpretations of these ordinances and the effect that such determinations have had upon arrangements of unrelated religious living in community within restricted areas.

\textsuperscript{20} See id. at 236; 12 NEW CATHOLIC ENCYCLOPEDIA 275 (1967) (constitutions of institutions mold obligations of the religious). Rules that conflicted with the Canons at the time of its passage were abolished by the enactment of the Code. See S. Woywod, supra note 18, at 206.

\textsuperscript{21} It is the communal living aspect of religious life, however, not living in a “convent” or building attached to place of work, that is integral. When the Code of Canon Law speaks of religious houses, it means a place of ministry or apostolate rather than a place of residence. 1983 CODE CC. 608-16.

\textsuperscript{22} See CANON LAW, supra note 18, at 300. Canon 606 of the 1916 Code forbade superiors to allow subjects to live outside the religious house for more than six months, unless it was for the purpose of study. Id.; see S. Woywod, supra note 18, at 292.

\textsuperscript{23} Until the mid 1960's, members of the Eastern American Province of this writer's congregation, residing in the United States lived exclusively in convents attached to places of work. Student religious living on a university campus in a residence with nuns from other congregations were living outside the community. Today, in this same congregation, approximately 58% of those not retired live in apartments or houses apart from places of work.
Structural Restrictions

Land use restrictions usually describe either permissible buildings or permissible uses in a particular area. Thus, cases applying zoning ordinances to religious communities have turned either on the nature of the group or on the nature and use of the building in which the group lives. The nature and use of the structure was a crucial issue in two cases involving restrictive covenants.24

In *Boston-Edison Protective Association v. Paulist Fathers, Inc.*,25 the plaintiff corporation sought to enforce a restrictive covenant that limited building use to residential purposes.26 A group of Paulist priests purchased and repaired a six-bedroom house located in a restricted area, which, the court noted, was “built up with residences of extremely high character and considerable value.”27 Five Paulist priests occupied the building as a residence and all worked outside of the zoned area.28 The plaintiff property-owners’ association objected to a group of unrelated individuals living together, and argued that the covenant should be interpreted to allow only single-family residences in the restricted area.29

The court, however, refused to restrict the meaning of either “single-family dwelling house” or “single-family dwelling” to mean housing for a single family related by blood or marriage.30 To so restrict the meaning, the court noted, ironically would require that the homeowners in this affluent area could employ only live-in servants related to the homeowner by blood or marriage.31 The court affirmed the decision of the lower court, and held that occupancy of the building—a structure similar to other buildings in the area—by a group of priests was within the definition of occupancy of a single dwelling for residential purposes.32

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24 See 1 A. Rathkopf & D. Rathkopf, supra note 13, § 1.01[1] (restrictions on land use accomplished by covenants running with the land); Note, supra note 11, at 347. For purposes of this article, no distinction will be made between restrictive covenants and zoning ordinances.


26 See id. at 256, 10 N.W.2d at 848. The covenant was as follows: “The said party of the second part . . . shall not use or occupy said lots except for a single dwelling house and dwelling house purposes only.” Id. The definition of “family” was based on blood relation, marriage or adoption. Id.

27 Id. at 255, 10 N.W.2d at 847-48.

28 Id. at 255, 10 N.W.2d at 847. No business matters, religious services lectures, or meetings were conducted on the premises. Id. The only use attributed to the building was use as a residence for the religious. Id.

29 Id. at 256, 10 N.W.2d at 848. The plaintiffs argued that “single family” referred only to persons related by blood or marriage, and that allowance of a violation in this situation would lead to further violations of a more serious nature. Id.

30 Id.

31 Id.

32 Id. at 256, 10 N.W.2d at 848. In doing so, the Michigan Supreme Court noted that the
An earlier Washington case involved a similar set of facts as applied to a group of sisters. In *Hunter Tract Improvement Company v. Corporation of the Catholic Bishop of Nisqually*, three Ursuline sisters took possession of a single-family residence in an area subject to a restrictive covenant. Neighboring property owners argued that occupancy by the sisters rendered the building an institution rather than a single-family residence. The *Hunter Tract* court found that none of the sisters' activities rendered their presence in the building inconsistent with the restrictions that allowed single detached structures for residential purposes only. In addition, the court observed that, in compliance with community preference, the sisters made no external changes on the building. The court likened the activities of the sisters to those of a family and found that daily mass did not render a house an institution any more than a clergyman's visit to a family turned its residence into an institution.

The court noted that if the sisters regularly used the house as a training center for novices, the building might lose its character as a residence. However, the sisters' invitation to the public to attend a single clothing ceremony was indistinguishable from a single family's invitation to a large number of friends to attend a gathering. The court concluded that although the popular conception of a sisters' residence is a convent, and convents are deemed institutions, not every such residence is a convent.

The aforementioned cases exemplify religious compliance with re-

lower court had retained jurisdiction to reopen the case should there be evidence that the Paulist Fathers made a substantial change in the use of the premises. *Id.* at 260, 10 N.W.2d at 849. While noting that the word "family" has a broad connotation, the court did not discuss whether the Paulist Fathers constituted a family. *Id.* at 258-59, 10 N.W.2d at 849.

98 Wash. 112, 167 P. 100 (1917).

Id. at 113, 167 P. 101.

*Id.* as evidence of the building's institutional status, the neighbors offered: the sisters' wearing of a religious habit, daily mass in the house, singing, ringing of bells, small children visiting on Sundays, telephone directory listing as "Ursuline Convent," and an invitation to friends to attend the clothing of novices. *Id.*

*Id.* at 113-14, 167 P. 101. When the neighbors denied a request to erect a cross on the outside of the house because they considered it inappropriate, the sisters dropped the matter. *Id.*

*Id.*

*Id.*

*Id.*

*Id.* Indeed, the court distinguished between the habitual and the occasional use of property in a manner inconsistent with residential use, and held that the mere incidental invitation to the public did not render the house as being used for other than "residence purposes only." *Id.*

*Id.* See *Scott v. Roman Catholic Archbishop*, 83 Or. 97, 104, 183 P. 88, 90-91 (1917) (upholding waiver of restrictions for building church, school and convent).
strictions in areas zoned for single-family homes when the particular structure and the activities performed therein comport with those of a normal family lifestyle. However, when a structure does not comport with the surrounding environment, courts normally will enforce the ordinance.

In Cash v. Catholic Diocese of Kansas City-St. Joseph, the diocese proposed to construct a convent building consisting of 6,000 square feet of floor space in an area restricted to single-family dwellings by a property owner’s agreement. A neighboring property owner sought to enjoin construction of the building. Although the court discussed both the activities of the nuns and the supervisory position of the Mother Superior, this case actually turned upon the nature of the proposed building. The two-story building, composed of thirteen bedrooms, an office, a chapel, a community room, a parlor, a dining room, kitchen, pantry storage facilities, and a large central bath, simply did not fit the common understanding of a single-family dwelling.

It should be noted that the court most likely objected to the overall size and style of the building rather than to the individual rooms within. With the probable exception of a chapel, most single-family homes have rooms similar to those found in the house in this case. It is doubtful, however, that the mere presence of a chapel would change the nature of the building for zoning purposes.

Nature of the Group

Zoning ordinances that affect area residents normally fall into two
categories: area restrictions that prohibit all buildings but single family dwellings and restrictions that limit residences in an area to single families but allow religious institutions such as churches, monasteries, convents, and rectories. The definitions of "family" contained in these ordinances either limit the number of individuals unrelated by marriage or blood, who may reside together, or provide for single housekeeping units. Both definitions of family have as their purpose the exclusion of multiple dwelling arrangements such as boarding houses, fraternity houses, and apartment houses. While the Supreme Court has upheld the validity of ordinances based on numerical limitations on unrelated cohabitants, several states have narrowed the authority of municipalities to circumscribe the definition of family.

In *Holy Name Hospital v. Montroy*, the New Jersey Superior Court struck down a Teaneck town ordinance that limited the number of unrelated residents of a single-family dwelling to three, unless the dwelling was owner occupied. Holy Name Hospital owned three separate houses within the area affected by the ordinance. Seven Roman Catholic sisters lived in one of the houses and four in each of the other two. All the sisters worked either at Holy Name Hospital or in nearby institutions or parochial schools. After the Teaneck Building Inspector filed a complaint against the hospital for violating the zoning ordinance, the hospital sued for a declaratory judgment that the ordinance was unconstitutional.

The Superior Court held the Teaneck zoning ordinance void in that it was unduly restrictive and "legally unreasonable." The court noted that the ordinance was particularly unreasonable because the numerical

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48 Multiple dwelling units, especially fraternity houses and boarding houses, normally are deemed violative of family environments. See Theta Kappa, Inc. v. City of Terre Haute, 141 Ind. App. 165, 172, 226 N.E.2d 907, 911-12 (1967); Phi Kappa Iota Fraternity v. Salt Lake City, 116 Utah 536, 542-43, 212 P.2d 177, 180 (1949); see also Association for Educ. Dev. v. Hayward, 533 S.W.2d 579, 586 (Mo. 1967) (en banc) (religious fraternity not a rectory under meaning of statute); *Holy Name Hosp. v. Monroy*, 153 N.J. Super. 181, 188-89, 379 A.2d 299, 303 (1977) (hospital not allowed to use property in single-family district for boarding houses or dormitories, but is allowed to use property as a convent). *But see La Porte v. City of New Rochelle*, 2 App. Div. 2d 710, 711, 152 N.Y.S.2d 916, 918 (2d Dep't 1956) (court allowed the erection of habitation for 60 male students of a religious order where building met side yard requirements for one-family dwelling but not for institutional building), aff'd *mem.*, 2 N.Y.2d 921, 141 N.E.2d 917, 161 N.Y.S.2d 886 (1957).


51 *Id.* at 182, 189, 379 A.2d at 300, 303.

52 *Id.* at 183, 379 A.2d at 300.

53 *Id.*

54 *Id.*

55 *Id.* at 187, 379 A.2d at 303.
limitation imposed bore no relationship to the habitable floor space or sleeping and bathroom facilities. The court chided the township for its attempts at exclusivity at a time when the State of New Jersey faced severe housing shortages: "the Township of Teaneck [through the enforcement of the ordinance] is converted into a private club, and application for admission must be accompanied by a validated marriage certificate." 

The court did not state that the Township lacked the authority to exclude a group living arrangement. However, the court held that in its attempt to promote a family-type environment, the Township may not exclude family-type substitutes. The sisters qualified as "voluntary families" because they did not have a negative impact on a family-type environment. Without discussing the life style of the sisters, the court said: "[t]he nuns in this case, as well as other members of recognized religious orders, must be included in this partial list of harmless voluntary families."

The court did not define what rendered such voluntary groups harmless to a family-type environment. However, early in the opinion, the court noted the absence of annoying or disruptive behavior. In addition, by acknowledging that all the nuns who resided in the three houses worked nearby and that the religious congregation paid maintenance and upkeep expenses to the hospital for the use of the houses, the court implied that some degree of financial reliability was indicative of a harmless voluntary family. Finally, by emphasizing the shared financial arrangements in the named family-type substitutes and referring to the exclusibility of boarding houses or dormitories, the court indicated that some degree of permanence was required.

An additional factor in the nuns' favor was their membership in a

64 Id. at 189, 379 A.2d at 303.
65 Id. at 187, 379 A.2d at 302.
66 Id. at 188-89, 379 A.2d at 303. The court noted that whereas Teaneck may impose restrictions to promote a family-type environment, the Township may keep Holy Name Hospital from using the properties as "boarding houses or dormitories for transient hospital workers." Id.
67 Id. at 186-87, 379 A.2d at 302. The court took note of several "harmless voluntary families" that were becoming more common: couples living together out of wedlock, unmarried, low-income individuals living together to share costs, and small groups of the elderly living together for both financial and companionship purposes. Id.
68 Id. at 187, 379 A.2d at 302.
69 Id. at 183, 379 A.2d at 300. The Township of Teaneck originally filed the complaint against Holy Name Hospital because of concern for the municipal tax base and fear of hospital expansion. N.Y. Times, March 24, 1977, at B23, col. 3.
70 153 N.J. Super. at 183, 379 A.2d at 300.
71 Id. at 188, 379 A.2d at 303.
recognized religious congregation.\textsuperscript{64} Presumably, in observing this, the court was not distinguishing between good and bad religious groups. Rather, the sisters, by virtue of their membership in a known religious order, established a claim to a religious bond among them. This bond helped to make them a voluntary family or a single non-profit housekeeping unit. According to the New Jersey Superior Court, the changing nature of social structures requires such a reasonable definition of “family.”\textsuperscript{65}

Use of a building by a recognized religious group, in one circumstance, enabled the inhabitants to change its nature. In \textit{La Porte v. City of New Rochelle},\textsuperscript{66} use of a four-story brick building to house more than sixty student members of the Christian Brothers of Ireland was held to constitute a one-family dwelling within the meaning of the New Rochelle, New York, zoning ordinance. Under the terms of the ordinance, single-family dwellings required smaller side yard setbacks than did accessory buildings. The building that the brothers proposed to build met the setback requirements of a single-family dwelling, but not the setback requirements of a building accessory to the college that the student brothers attended.\textsuperscript{67}

Because the zoning ordinance had no limitation on the number of persons that constituted a family, or on the size of the structure that constituted a single dwelling unit,\textsuperscript{68} the court held that sixty student brothers were a single family and the four-story building was a one-family dwelling rather than a dormitory.\textsuperscript{69} The majority opinion did not mention the ties that bound the brothers together, since the terms of the ordi-

\textsuperscript{64} Id. at 187, 379 A.2d at 302. The court used language that evinced a desire to limit the holding to “recognized” religious orders. Id.

\textsuperscript{65} See id. Changes in fundamental family lifestyle and marriage were deemed relevant factors in considering the reasonableness of a zoning ordinance restricting the term “family.” Id. While the state may act to preserve a family style of living, it may not use zoning ordinances to regulate the “internal composition of housekeeping units,” State v. Baker, 81 N.J. 99, 106, 405 A.2d 317, 320 (1979) (citations omitted); see City of Des Plaines v. Trottner, 34 Ill.2d 368, 371 (1966), nor to control internal family life, Taxpayers’ Ass’n v. Weymouth Township, 80 N.J. 6, 33, 364 A.2d 1016, 1031 (1976); City of White Plains v. Ferraioli, 34 N.Y.2d 300, 305, 313 N.E.2d 756, 758, 357 N.Y.S.2d 449, 452 (1974).


\textsuperscript{67} 2 App. Div. 2d at 710, 152 N.Y.S.2d at 917. Under the terms of the ordinance, single-family dwellings required shorter side yard setbacks than did accessory buildings. The setbacks of the proposed building were too small for anything but a single-family dwellings. Id.

\textsuperscript{68} Id. at 710-11, 152 N.Y.S.2d at 918. The zoning ordinance defined a “family” as “one or more persons occupying a dwelling unit as a single, non-profit housekeeping unit.” Id. at 710, 152 N.Y.S.2d at 918.

\textsuperscript{69} Id. at 711, 152 N.Y.S.2d at 918. Justice Beldock dissented, stating that sixty male students could not constitute a family, no matter what ties might bind them together. Id.
nance rendered such discussion unnecessary. The ordinance required complete housekeeping facilities for a single-family dwelling.\(^{70}\) Since the proposed building, in addition to sleeping quarters, contained a kitchen and dining hall facilities, it met the terms of the ordinance.\(^{71}\)

It should be noted that there was probably much less at stake in terms of the surrounding area in *La Porte* than in *Cash*. The New Rochelle ordinance permitted colleges and dormitories in the zoned area, but required that such buildings have a sixty foot side yard setback rather than the twelve to fifteen feet required for single-family homes.\(^{72}\) In *Cash*, the 6,000 square foot brick structure apparently would have been the only building of its kind in the Sherwood Estates housing development.\(^{73}\) Arguably, in a judicial decision on the applicability of a zoning ordinance, when a proposed building will have a drastic effect on the surrounding area, the nature of the building will prevail; when the building will have a minimal effect on the surrounding area, the nature of the residents will prevail. Accordingly, the Appellate Division in *La Porte* simply held that occupancy by “members of the order . . . as a single non-profit housekeeping unit . . . [did] not deprive the building of its character as a one-family dwelling.”\(^{74}\)

The nature of the group of occupants has also been determinative in cases involving zoning ordinances and restrictive covenants that define “family” in the broader sense of single housekeeping units rather than in terms of narrow blood or marriage limitations. In *Carrol v. City of Miami Beach*,\(^{75}\) the Bishop of the Diocese of Miami proposed to house a group of novices under the direction of a mother superior in a building owned by the diocese.\(^{76}\) The area was subject to a single-family zoning ordinance that defined “family” as “[o]ne or more persons occupying premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, a lodging house or hotel.”\(^{77}\)

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\(^{70}\) *Id.* at 710, 152 N.Y.S.2d at 918. Indeed, the ordinance defined a dwelling unit as:

a building or entirely self-contained portion thereof containing complete housekeeping facilities for one family only, and having no enclosed space or cooking or sanitary facilities in common with any other dwelling unit, except for vestibules, entrance halls, porches or hallways.

*Id.*

\(^{71}\) *See id.* at 711, 152 N.Y.S.2d at 918.

\(^{72}\) *See 2 N.Y.2d* at 921, 141 N.E.2d at 917, 161 N.Y.S.2d at 886.

\(^{73}\) *See 414 S.W.2d* at 347-48.

\(^{74}\) 2 App. Div. 2d at 711, 152 N.Y.S.2d at 918.

\(^{75}\) 198 So. 2d 643 (Fla. Dist. Ct. App. 1967).

\(^{76}\) *Id.* at 644.

\(^{77}\) *Id.* A single housekeeping unit is perhaps best defined in the negative. It is not a dormitory, boarding house or hotel. *Id.* Whether a group occupation constitutes a single housekeeping unit is normally to be decided upon the particular facts of the case. A decisive factor would be that the individuals lived, cooked and ate together “under the same man-
The city denied the Bishop’s request to use the property as a novitiate on the ground that a group of novices was not a single family. On appeal, the Bishop argued that the novices did indeed constitute a family within the meaning of the Miami zoning ordinance, and that the only noticeable difference between the group and any other family was the religious habit worn by the novices.

The court refused to imply a requirement of marriage or blood relationship into the less restrictive definition of family used in the ordinance. However, the court failed to articulate why this group of novices constituted a family rather than boarders or lodgers. Apparently, the presence of religious authority—the mother superior—was sufficient to make the difference.

However, the presence of a superior has been deemed insufficient when the ordinance narrowly defines “family” as blood relatives but allows for convents, monasteries, parish houses, and rectories. In Association for Educational Development v. Hayward, a group of Roman Catholic laymen under the direction of a priest qualified neither as a single family within the meaning of the ordinance, nor under the convent, monastery or rectory exception. The Kirkwood, Missouri ordinance defined “family” as any number of persons living together as a single housekeeping unit, provided no more than two persons were unrelated by blood, marriage, or adoption. The eight men seeking an occupancy permit in this case were members of a religious society of laymen known as Opus Dei. Together with their spiritual director, an ordained priest, the group proposed to live a family-type life in a three-story home that they


78 198 So. 2d at 644.
79 Id.
80 Id. at 645.
81 533 S.W.2d 579 (Mo. 1976) (en banc).
82 Id. at 586.
83 Id. at 582.
84 Id. at 580-81. Opus Dei is an association of laymen whose purpose is to provide “religious formation to its members and to others who freely seek it.” Id. at 581. It is not a religious order and therefore, its members are not required to “take religious vows, wear a habit or live a community life.” Id., quoting 10 New Catholic Encyclopedia 709 (1967).

At the time of Hayward, Opus Dei was an Association of the Faithful established pursuant to Catholic Canon Law. See generally I J. Abbott & J. Hannan, The Sacred Canons 690-699 (2d rev. ed. 1960) (The Pope has since raised Opus Dei to the status of a Person Preature). The Church establishes rather than merely approves such associations. Id. at 690, Canon 684. The 1917 Code of Canon Law forbids many classes of persons who have taken public religious vows from membership in these associations. Id. at 706, Canon 704, § 1. The 1983 Code permits such membership under certain circumstances. Canon 307, § 3.
were about to purchase.\textsuperscript{85}

The eight laymen in Hayward all had a permanent commitment to the secular life, yet dedicated themselves to the practice of an intense spiritual life as well.\textsuperscript{86} Since neither the laymen nor the priest were related to each other by blood, marriage, or adoption, the group did not meet the statutory criteria for a family.\textsuperscript{87} Opus Dei argued, however, that when the ordinance grouped together convents, monasteries, rectories, and parish houses, it created a category of usage rather than a listing of permitted individual uses, and that Opus Dei's proposed use fit this category.\textsuperscript{88}

Because the Kirkwood ordinance did not define religious dwelling, the court looked to dictionary definitions.\textsuperscript{89} Each definition referred in some way to religious occupants—priests, clergymen, nuns, monks, or ministers.\textsuperscript{90} Therefore, the court concluded that by using such specific references, the city intended to make occupancy by more than three unrelated people dependent upon the "nature and extent of the occupants' religious commitment."\textsuperscript{91} While the court did not question the religious commitment of the members of Opus Dei, it found their commitment to be less than full time, that is, more in the nature of an avocation than a vocation.\textsuperscript{92} Since the principal residents of rectories, convents, and parish houses are persons with absolute religious commitments, the court concluded that the intent of the ordinance was to limit single-family occupancy to no more than three individuals who are not related by blood, marriage, or absolute religious commitment.\textsuperscript{93}

Opus Dei argued that the dictionary definitions of monasteries, convents, rectories, and parish houses were archaic.\textsuperscript{94} They contended that nuns were no longer recluses but rather were women with a religious vocation who lived in community and taught or engaged in other secular activities, often many miles from their convents.\textsuperscript{95} Thus, their lives were no more religious nor less secular than were the lives of Opus Dei members who devoted their lives to the Catholic Apostolate in the St. Louis

\textsuperscript{85} 533 S.W.2d at 581.
\textsuperscript{86} Id.
\textsuperscript{87} See supra note 83 and accompanying text.
\textsuperscript{88} 533 S.W.2d at 583.
\textsuperscript{89} Id. at 584.
\textsuperscript{90} Id.
\textsuperscript{91} Id.
\textsuperscript{92} Id. at 586. The members of Opus Dei did not claim to be clergymen, id. at 581, and thus could not qualify under the rectory exception to the one-family dwelling zoning ordinance, id.
\textsuperscript{93} Id.
\textsuperscript{94} Id. at 585.
\textsuperscript{95} Id.
The court refused to accept the argument that any group with intense religious beliefs and activities qualified for residence in a monastery or convent. The court in Hayward, the failure of the ordinance to prescribe the actual structure of permissible buildings caused the nature of the occupants to determine its character. Thus, whether a single-family dwelling was characterized as a house or as a religious residence depended upon the extent of religious commitment of its occupants. Lacking vows or ordination, the laymen could not qualify as vocational religious no matter how ardent or religious their beliefs and activities.

Religious Houses/Convents

In contrast to Hayward, the court in Missionaries of Our Lady of La Salette v. Village of Whitefish Bay adopted a broad definition of convent as a place of seclusion and retirement, and held that a group of men with a full-time religious commitment lived as a religious family rather than as residents of a convent. The zoning ordinance at issue in La Salette divided the Village of Whitefish Bay into seven districts and permitted convents in only three districts. The Missionaries of Our Lady of La Salette owned and occupied a house in one of the districts zoned only for single-family use.

The court found that the lifestyle of the three priests and two brothers living in the house more closely resembled that of a family than that of a convent. It viewed the ministry as one of the learned professions.

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96 Id.
97 See id. at 586. In response to Opus Dei's claim that the restriction violated their constitutional right of freedom of religion, the court stated that the proposed use of the building was neither "necessarily incidental" to that of a church, id. at 587, nor essential to the free exercise of their religious beliefs, id. at 588; see Walker, supra note 3, at 158.
98 533 S.W.2d at 586. A religious commitment characterized as professional in nature, e.g., priests and nuns, would qualify the building as a convent. Id. The nature of the commitment was not to be determined by either group activities or number of hours spent in prayer. Id.
99 Id.
100 267 Wis. 609, 66 N.W.2d 627 (1954).
101 Id. at 616-17, 66 N.W.2d at 631.
102 Id. at 614, 66 N.W.2d at 630. Convents were permitted in districts four, five and six. Id. Section 14.07(b) of the zoning ordinance expressly provided that "churches including accessory rectories, auditoriums and convents" were permitted in district four. Id. at 611, 66 N.W.2d at 628. The court did not state what authority permitted convents in districts five and six, the apartment district and the business district, respectively. Id. at 614, 66 N.W.2d at 630.
103 Id. at 611-12, 66 N.W.2d at 629.
104 Id. at 619-29, 66 N.W.2d at 632-33. Section 14.02(11) of the zoning ordinance defines "family" as "one or more individuals eating, sleeping, cooking or eating on premises as a
and the clergy as professional persons living as a religious family that exercised their professional responsibilities apart from the premises.108 There was no question that these men were not recluses living in seclusion and retirement from the world. The court reasoned that not every building is a convent or monastery simply because it houses people who have made certain vows and live subject to a superior's decisions.

In La Salette, the difference between a family and a convent was seclusion and retirement from the world and not religious vows or prayer.109 Since American living includes the right to engage in religious devotion in the home with other members of one's family, daily mass in the Missionary chapel did not make a convent. The court saw no distinction between a chapel and a family recreation room.110 The religious vows, the presence of a superior, and communal prayer were all part of the bonds that made the group a single housekeeping unit, and, therefore, a family within the meaning of the village ordinance.

It is apparent that not all religious bonds, however, are sufficient to create a "family," particularly in a situation involving an ordinance employing a narrow definition of the term. In People v. Kalayjian,108 a zoning ordinance of the City of Rye, New York defined a family as "one or more persons living together on the premises as a single housekeeping unit in a domestic relationship based on birth, marriage or other domestic bond."109 The ordinance also permitted the use of property for religious purposes, such as places of worship, parish houses, and buildings for religious instruction.110 Although the ordinance did not define "other domestic bond," the arrangement established by the defendant fit neither the single family nor religious use.111

In Kalayjian, the defendant's household included twenty-five people that comprised four separate families, two maids, and a monk; all were

single housekeeping unit." *Id.* at 618, 66 N.W.2d at 629. Since the ordinance failed to define "convent," the court looked to the dictionary definition of convent which provided that a convent was a "community of recluses devoted to a religious life under a superior." *Id.* at 618, 66 N.W.2d at 632. Because the court found that the occupants used the dwelling solely for residential purposes and directed their "vocational activities . . . to situations and places away from the premises," the court held that the occupation was neither violative of the definition of family nor consistent with the definition of convent. *Id.*

108 *Id.* at 632.

109 *Id.*

107 267 Wis. 616, 66 N.W.2d at 631. The court opined that there is no "reasonable distinction" between a room in a house set aside as a chapel and a room set apart as a "ballroom, music room, conservatory or recreation room." *Id.*


109 *Id.* at 1099, 352 N.Y.S.2d at 117.

110 *Id.*

111 *Id.* at 1099, 352 N.Y.S.2d at 117-18.
members of the American Orthodox Catholic Church. The court refrained from addressing either the religious bond among the inhabitants or whether it was sufficient to comply with the "domestic bond" provision of the ordinance. In affirming Kalayjian's conviction for occupying a one-family residence other than as a one-family dwelling, the court focused on his failure to establish the religious uses enumerated in the ordinance. Although all occupants were members of the same church—three were ordained deacons, and religious instruction was available to the occupants—the court nevertheless found that the building was neither owned nor used by the church. Therefore, the principal use of the building was not a religious use but a prohibited use as a dwelling for more than four families.

Implicit in the Kalayjian decision is the idea that membership in a recognized church does not qualify a group of unrelated individuals as a religious family, nor does occupancy by ordained clergy necessarily constitute a religious use of a building. The court noted that while there was some religious instruction on the premises, no religious services were conducted there. The building was owned by an individual rather than by a religious institution, and the church did not maintain a place of worship in the City of Rye. Arguably, a group of Roman Catholic religious could fit under the religious-use exception in the Rye ordinance. While a religious congregation is not identical to a church, there are many situations in which particular orders are treated as churches under the law.

When religious rent or buy a house, they normally do so in the name of the congregation. Even though many religious communities are no longer adjacent to or recognized as part of the local parish complex, residence by a group of religious is religious use in the same sense that residence by a minister or priest in a parish house is religious use. Religious today carry on the work of the church in places other than the church building. If occupancy by those who work in the church building with a

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113 Id. at 1098, 352 N.Y.S.2d at 117.
114 Id. at 1098-1100, 352 N.Y.S.2d at 117-19.
115 Id. at 1100, 352 N.Y.S.2d at 118-19.
116 Id. at 1099, 352 N.Y.S.2d at 118. The court stated that the factual situation clearly displayed that the building was not used for religious purposes and did not fit the standard definition of a parish house. Id. (quoting WEBSTER's THIRD NEW INTERNATIONAL DICTIONARY (unabr. ed. 1976)).
117 76 Misc. 2d at 1098, 352 N.Y.S.2d at 117.
118 Id. The court observed that the defendant's place of worship was not within the town of Rye. Id.
119 See, e.g., I.R.C. § 6033(a)(2)(A) (1976) (churches and the exclusively religious activities of any religious order are exempt from the requirement that organizations file a tax return); 26 C.F.R. § 1.511-2(a)(3)(ii) (1982) ("[t]he term church includes a religious order or a religious organization if [it] (a) is an integral part of a church, and (b) is engaged in carrying out the functions of a church").
full-time commitment to the church is a religious use, occupancy by those with the same commitment who participate in such work outside of the church is likewise a religious use.\textsuperscript{119} It is the religious commitment, rather than the type of work performed, that makes the difference. In \textit{Board of Zoning Appeals v. Wheaton},\textsuperscript{120} residents of Indianapolis argued that the proposed construction of a convent as part of a parish complex violated the restriction in the zoning ordinance that prohibited schools with “living quarters maintained.”\textsuperscript{121} The archdiocese proposed to construct a church, a rectory, a school and convent in the area. The convent was to house the sisters who were to teach in the school.\textsuperscript{122} The court refused to construe the ordinance so literally as to view the convent as “living quarters maintained” in connection with a school.\textsuperscript{123} Rather, the court viewed the convent as the sisters’ home and, as such, an integral part of the church project, rather than a part of the school. The court reasoned that any building used in connection with the faith of a religious organization is a building for church purposes.\textsuperscript{124} It was the convent used as a sisters’ home, however, and not the work performed in the school that determined whether the building was part of the church or part of the school.\textsuperscript{125} The sisters were an integral part of the church and performed the church’s work; the taking of vows and membership in a religious order made them religious professionals.\textsuperscript{126} It is the full-time religious commitment of the residents, and not the proximity of the residence to the church building itself or the work within the boundaries of the church property that determines whether a house is being used for religious purposes.\textsuperscript{127}


\textsuperscript{120} Id. at 47-48, 76 N.E.2d at 601.

\textsuperscript{121} \textit{Id.} at 40-41, 76 N.E.2d at 598.

\textsuperscript{122} \textit{Id.} at 47-48, 76 N.E.2d at 601.

\textsuperscript{123} \textit{Id.} at 40-41, 76 N.E.2d at 598.

\textsuperscript{124} \textit{Id.} at 47-48, 76 N.E.2d at 601.

\textsuperscript{125} \textit{Id.} The court relied upon the case of \textit{Scott Co. v. Roman Catholic Archbishop}, 83 Or. 97, 107, 163 P. 88, 91 (1917), to demonstrate that a building for church purposes is not limited to use as a place for divine worship. 118 Ind. App. at 46, 76 N.E.2d at 601; \textit{see supra} note 38 and accompanying text.

\textsuperscript{126} \textit{Id.} at 47, 76 N.E.2d at 601.

\textsuperscript{127} \textit{Id.} (quoting \textit{Scott Co.}, 83 Or. at 109, 163 P. at 91).
Neither ordination, specific church work, nor adherence to a particular church was necessary for the Illinois appellate court to find in *Diakonian Society v. City of Chicago Zoning Board of Appeals*\(^2\) that a group of monks was a religious group and that their residence in a single-family district was a permitted use within the meaning of a Chicago zoning ordinance.\(^2\) In *Diakonian Society*, the plaintiff was a religious society with an ecumenical ministry.\(^3\) The members adhered to various religious traditions, including those of the Roman Catholic, Lutheran, and Presbyterian faiths. They professed vows of poverty, chastity, and obedience and lived under the direction of an ordained pryor who regulated their daily activities according to the Rule of Saint Benedict.\(^3\) In addition to determining the prayer schedule of the house, the pryor assigned or approved the employment activities of the members.\(^3\)

The zoning board argued that only the ordained pryor was a religious professional because the other members pursued work outside the premises.\(^3\) The court refused to accept this argument and distinguished the religious society here from the Opus Dei society in *Hayward*.\(^3\) *Diakonian Society* relied heavily on the *Hayward* court and found the men to be full-time religious rather than laymen.\(^3\) The factors contributing to the court’s conclusion were religious vows, regulation of most activities by the rule of Saint Benedict, common life under the direction of the pryor, and common prayer requirements.\(^3\) In addition, the court accepted the testimony of a Roman Catholic canon lawyer who stated that as he understood the term, the men were monks.\(^3\) The religious commitment of the Diakonian Society members enabled them to qualify within the religious use provisions of the ordinance. Thus, the court implicitly recognized that the commitment of such individuals fosters a stable envi-

\(^{129}\) Id. at 827-28, 380 N.E.2d at 846-47.
\(^{130}\) Id. at 824, 380 N.E.2d at 844.
\(^{131}\) Id. at 824-25, 380 N.E.2d at 844-45.
\(^{132}\) Id.
\(^{133}\) Id. at 827, 380 N.E.2d at 846.
\(^{134}\) Id.; see supra notes 84-93 and accompanying text.
\(^{135}\) 63 Ill. App. 3d at 827, 380 N.E.2d at 846.
\(^{136}\) Id.

\(^{137}\) Id. The canon law expert testified that a monk is "one who has committed himself to a religious way of life, is a member of a religious society, has taken the vows of poverty, chastity and obedience and lives a common life with others who have taken similar vows." Id. at 825, 380 N.E.2d at 845. He testified that the fact that the members of the Diakonian Society were not Catholic had no effect on their status as monks. Id.
ronment qualifying as a harmless family substitute.

CONCLUSION

The purpose of the land use restrictions that have been considered is to preserve the values and environment of family life. The restrictions do this either by limiting the size of buildings in order to promote outdoor space or by limiting residence in an area to persons deemed beneficial, or at least harmless, to the family atmosphere. The majority of cases involving occupancy by a religious group turn on whether or not the group qualifies under the restrictions enumerated in an ordinance. Those seeking to enforce the ordinance against the religious do so not because of a specific objection to the particular religious group, but because of the possibility that other organizations will attempt to qualify under the ordinance, yet will not be as conducive to a family environment as are the religious organizations. Courts, therefore, look to the degree of commitment that individual religious have to their particular organization and to the primary purpose of their activities. Members of a recognized religious order often qualify within religious exceptions to single-family zoning ordinances because of this commitment.

It is apparent that difficulty exists in excluding religious men and women by means of existing land use restrictions. Ordinances that limit residences to families bonded by blood or marriage too narrowly restrict the definition of family and bear too little relationship to the state's purpose of promoting family values. When a broader definition of family as a single housekeeping unit is employed in the ordinance, courts look to the bonds among group members to distinguish a religious house from a multiple dwelling. Acceptable bonds include religious vows, shared daily life, the presence of religious authority in the group, and membership in a recognized religious congregation.

Essentially, what matters for purposes of zoning is the extent to which the religious blend in with their neighbors and the surrounding community. Relatively stable, fairly quiet people who work outside the home are not offensive to the purpose of single-family zoning ordinances.