

Patterson Belknap Tackles Islamophobia In NJ Pro Bono Case

By Jeannie O'Sullivan

Law360, New York (June 22, 2017, 2:10 PM EDT) -- While taking on a New Jersey town in a fight to revive a Muslim community's plan for a mosque, a group of pro bono attorneys from New York City-based Patterson Belknap Webb & Tyler LLP unearthed an ugly case of Islamophobia and turned it into a legal victory.

The Islamic Society of Basking Ridge, a Muslim nonprofit organization, has six dedicated Patterson Belknap lawyers to thank for what will be their new house of worship in the town of Bernards, which had rejected their plan in a decision that a New Jersey federal judge ruled in December was driven by religious discrimination.

Another triumph followed in May, when the Somerset County town agreed to pay ISBR \$3.5 million and grant the necessary building approvals to settle claims brought in a companion suit by the U.S. Department of Justice.

The high-profile litigation represents one of the firm's most significant pro bono commitments and has garnered significant media attention, along with professional industry awards and a stronghold of amicus support, for its candid look at public entities' growing use of land use matters as pretext for halting development. Filed in March 2016 in New Jersey federal court, the lawsuit asserted 11 claims under the Religious Land Use and Institutionalized Persons Act of 2000, better known as RLUIPA.

The ISBR contended that Bernards imposed more onerous parking requirements on its project than was required for other religious developments. While the town contends its rejection was purely based on zoning law, public records and testimony hinted that the town yielded to public opposition to the project.

"A key part of this early on in terms of developing the case was to get to know this Muslim community in this town and understanding what they had been through. And that is a very human process," Patterson Belknap Partner Adeel A. Mangi, lead counsel for ISBR in the case, told Law360.

By mining public meeting minutes and conducting interviews, the lawyers learned what the ISBR had endured during its zoning application process. Vandals defaced the group's mailbox, replacing their name with "ISIS." An adversarial group formed a presence on Facebook. Members of the public voiced hostile views around the neighborhood and in public hearings. The plan was rejected after 39 public hearings over four years.

Yet the publicly available documentation on the township's actions and meeting minutes, and the willingness of the ISBR to speak up, knowing the negative reception marginalized communities often field, gave rise to an impeccably detailed narrative in the resulting complaint.

As an attorney who began working on the case after the lawsuit was drafted, Patterson Belknap Associate Elizabeth C. Quirk says she can "objectively" attest to the complaint's clear depiction of how the town treated other houses of worship differently. She also praised the full support the firm gives to pro bono efforts, which she says are given the same priority as billable hours.

"If you're our client, you're our client," Quirk said.

The litigation, which drew support in the form of 34 amicus briefs, took an unusually short path due in part to what Patterson Belknap Associate Alejandro H. Cruz called "inescapable truths."

The town had defended its decision as based on an informational report on varying traffic needs of religious institutions and testimony from an expert hired by a local community organization. According to court documents, the ISBR's site plan provided for 50 parking spaces in light of an estimated occupancy of 150 people, but the township determined that the parking ordinance applied only to Christian churches and it voted to require ISBR to build 107 parking spaces.

In its answer to the complaint, the township made a "stunning admission" that a particular church had received better treatment than the ISBR, Cruz noted. The discriminatory zoning and the public vitriol were all rooted in the same core of "ignorance and hate," he said.

In the end, the case was driven to victory on the facts alone, with very little discovery needed. In December, U.S. District Judge Michael A. Shipp granted ISBR's motion for judgment on the pleadings.

The motion showcased the firm's savvy use of RLUIPA's nondiscrimination provision, which holds public entities accountable for exercising religious-based bias in land-use matters. According to Cruz, Judge Shipp's decision makes clear that when it comes to religious distinctions made by governments in land use proceedings, there is no justification sufficient to overcome liability,

"Once a government has engaged in religious sorting in land use proceedings — for any reason or no reason at all — and regardless of evidence of any religious animus, that government is liable for damages and injunctive relief under RLUIPA," Cruz said.

Under the separate settlement with the DOJ, the township agreed not only to the \$3.5 million payout but also to allow ISBR to use its property as a mosque. Bernards will also amend its zoning ordinance that federal authorities said unreasonably limited any house of worship from building in the municipality.

The case has drawn recognition from Patterson Belknap's legal industry peers. For its work on the case, the firm has been bestowed with the Muslim Bar Association of New York's Champions of Justice Award. Also, the South Asian Bar Association will give the Patterson Belknap lawyers its Pro Bono Attorneys of the Year distinction, and the South Asian Bar Association of New Jersey announced that the firm will be awarded its Trailblazer Award at its gala in September.

As far as Mangi is concerned, the lawyers' 5,000 hours on the case were well spent.

“The case ensures that one religious group will not be treated differently from another in the land-use process. To the extent that any townships are treating some houses of worship differently, they now have a cautionary tale,” he said.

--Additional reporting by Alex Wolf and Bill Wichert. Editing by Pamela Wilkinson and Rebecca Flanagan.

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