

THE JEWISH JOURNAL

OF GREATER LOS ANGELES

www.jewishjournal.com

Hancock Park Shul War Back in Court

by Julie Gruenbaum Fax, Religion Editor

The rabbi of a small, embattled congregation is charging that anti-Semites and self-hating Jews are using zoning laws to get Orthodox Jews out of Hancock Park as an epic eight-year legal battle heads back to court.

Nine neighbors filed a complaint last month asking a judge to bar the congregation from using two homes — one under construction on the corner of Highland Avenue and Third Street and the rabbi's residence on June Street — for daily and Shabbat services.

The neighbors say they welcome diversity and are simply interested in maintaining Hancock Park's architectural integrity and residential quality, which they say was the intention of the zoning law the congregation has been trying to skirt for the last eight years.

With vast, lush landscaping and mansions in Spanish, Tudor and Mediterranean-revival styles built mostly in the 1920s and 1930s, Hancock Park is recognized as one of the most attractive neighborhoods in the city. Over the last few decades, it has also become a heavily Jewish neighborhood, along with nearby La Brea Avenue and Beverly Boulevard.

Hancock Park is zoned for residential use only, and Etz Chaim relies on a controversial federal law that allows religious institutions to override local zoning codes. Chaim Rubin, Leader of Congregation Etz Chaim, has been quite aggressive in his assertion that the suit is motivated solely by neighbors' aversion to having religious Jews in Hancock Park, which decades ago had restrictive covenants where Jews and blacks, among others, were barred from owning homes.

"They think they are going to stop me. I am not going anywhere. I am here to stay. It is my congregation and we are going to serve God and practice our religion as we see fit because this is guaranteed to us in the United States of America," said Rubin, whose father founded the congregation in his June Street home 30 years ago. "I don't live in Poland anymore, I don't live in Germany anymore and nobody can come in and tell me I have no right to practice my religion."

Somewhere amid the stark assertions of anti-Semitism and civic duty lies a more nuanced truth where divergent ethnic lifestyles and allegiance to a religion or to civic pride have pitted neighbor against neighbor in a tale with parallels across the country. Similar cases nationwide have pitted religious institutions against homeowners trying to return full zoning control to local communities, and the issue is expected to reach the Supreme Court in the next five years.

The Etz Chaim case hearing is scheduled in U.S. District Court for Sept. 8.

This is not the first time that Etz Chaim, with about 40 worshippers on Shabbat and 10 to 15 men at a daily minyan, is involved in a legal battle.

The congregation, which purchased the home at 303 S. Highland in 1995, lost repeatedly before zoning boards, the City Council, local courts and the state Superior Court in its effort to acquire legal rights to pray in the home. After President Clinton signed into law in September 2000 the Religious Land Use and Institutionalize Persons Act (RLUIPA), giving religious institutions the right to override local zoning laws, the city attorney's office entered into a settlement under which the congregation could use the Highland Avenue building in a limited capacity.

The neighbors' July 10 complaint to U.S. District Judge Harry L. Hupp contends that the February 2002 settlement agreement amounted to the city issuing a conditional-use permit (CUP) — which would be necessary to house a religious institution in a residential zone — without the public hearings and notifications that usually go along with the CUP process, violating the plaintiff's rights to due process.

On Aug. 6, the congregation filed a motion to have the charges dismissed, saying the plaintiffs have no standing to sue since residents do not have rights to make claims about the zoning of neighbor's property, according to Susan Azad of Latham & Watkins in Los Angeles, lawyer for the congregation.

The plaintiffs also accuse the city of violating church-state separation by according special treatment to the congregation in not halting its allegedly illegal use of the rabbi's June Street home while the Highland home is under construction.

The city has not yet responded to the complaint, but in a separate action the city claims that the extensive remodeling violates the settlement agreement, which called for the congregation to do minor upgrades to the property while maintaining its residential character.

In June 2002, much of the original 3,600-square-foot building was demolished, and an 8,150-square-foot building (1,600 feet of which are underground) is going up in its place. The renovated house, set to be finished sometime this winter, will include a "living room" with a large dome ceiling and a balcony for services, and a library and classrooms upstairs. Rubin said the building will be landscaped and have no signage indicating it is a shul. The renovations total about \$1 million.

"Once we had to redesign the building and to make the changes required in the settlement agreement, we felt that it would be worthwhile to make it look very beautiful and make it accommodating for all of our needs," said Rubin, emphasizing that the Department of Building and Safety issued permits for all the remodeling.

After the congregation demolished the building, the city asked the Department of Building and Safety to issue a stop-work order, contending the extensive renovations violated the settlement. Construction was halted for several months until the court granted the congregation's motion to have that stop-work order lifted. Earlier this month, the city filed an appeal to that ruling.

"That structure suggests a rather brazen determination to flaunt what the rabbi believes to be either his rights under civil law or some divine calling," said Leonard Hill, a television producer and Hancock Park resident who is president and a founder of the newly formed League of Residential Neighborhood Advocates, which is funding the lawsuit.

"The only reason we are doing this is we believe that this is a wonderful place to live and we want to turn it over to future generations with the same sense of historical integrity, peace, tranquillity and openness that currently makes it such a special place to live," Hill said.

Underlying the plaintiff's suit is the belief that RLUIPA undermines the equal protection guaranteed by the Constitution.

"The real question is, does the federal government from Washington get to dictate which landowners get special treatment in land use projects, or do local communities get to determine how land use is done?" asked Marci Hamilton, co-counsel for the plaintiffs with Leslie M. Werlin of Van Etten Suzumoto & Becket in Santa Monica.

Hamilton, an RLUIPA expert and professor of church-state law at Cardozo Law School of Yeshiva University, argued a case before the Supreme Court in 1997 that resulted in the court declaring unconstitutional the 1993 Religious Freedom Restoration Act, a law similar to RLUIPA.

Hill — a Jew who spent time on kibbutz and in yeshiva and was bar mitzvahed at Sinai Temple — has little tolerance for the claim that the opposition is controlled by anti-Semites and self-hating Jews. "The rabbi is unwilling to engage in substantive debates about equal protection, separation of church and state, historic preservation and maintenance of neighborhoods, responsibilities to neighbors — all that goes by the way and, instead, the red cape of racism is immediately raised by the rabbi in an effort to cloud the true merits of the debate," Hill said.

But Azad wonders why neighbors — who in the suit cite two large bar mitzvahs at the June Street home — are not as outraged by other large parties in the area.

"If the city is going to cite Rabbi Rubin for inviting people into his house, they would have to go after all the people who have Girl Scout meetings and book club meetings and the other things people normally do when they invite people into their house," she said.

