

RECEIVED

VIRGINIA:

IN THE CIRCUIT COURT OF ARLINGTON COUNTY

DEC 13 2006

DAVID A. GELL, CLERK
Arlington County Circuit Court
By [Signature] Deputy Clerk

IN RE:)
)
THE CHURCH AT THE FALLS-)
THE FALLS CHURCH)
115 East Fairfax Street)
Falls Church, Virginia 22046)

CIVIL NO. 06-1751

PETITION FOR APPROVAL OF REPORT OF CONGREGATIONAL DETERMINATION PURSUANT TO VA. CODE § 57-9

For its petition, The Church at the Falls--The Falls Church ("The Falls Church"), hereby states as follows:

NATURE OF PROCEEDING

1. Pursuant to Va. Code § 57-9, The Falls Church, a nonstock religious corporation under the laws of Virginia, respectfully files this petition for approval of the report of its congregational determination filed herewith. Section 57-9 provides that where a religious diocese or denomination experiences a "division," the members of a congregation in that diocese or denomination may determine, by majority vote, which branch of the divided body to join, and that the circuit court's approval of that determination is conclusive as to the title to and control of any property held in trust for such congregation.¹

¹ Va. Code § 57-9 provides in relevant part:

If a division has heretofore occurred or shall hereafter occur in a church or religious society, to which any such congregation whose property is held by trustees is attached, the members of such congregation over 18 years of age may, by a vote of a majority of the whole number, determine to which branch of the church or society such congregation shall thereafter belong. Such determination shall be reported to the circuit court of the county or city, wherein the property held in trust for such congregation or the greater part thereof is; and if the determination be approved by the court, it shall be so entered in the court's civil order book, and shall be conclusive as to the title to and control of any property held in trust for such congregation, and be respected and enforced accordingly in all of the courts of the Commonwealth.

JURISDICTION AND VENUE

2. This Court has jurisdiction of the subject matter of this petition pursuant to Va. Code § 57-9, which authorizes “the circuit court of the county or city, wherein the property held in trust for such congregation or the greater part thereof is” to receive a report concerning a congregation’s determination as to which branch of the post-division diocese or denomination the congregation wishes to join. Pursuant to certain deeds, trustees for The Falls Church (the “Trustees”) hold legal title to the real property currently possessed by The Falls Church, located at 115 East Fairfax Street, Falls Church, Virginia 22046 (“the Church”). According to the relevant deeds, these trustees hold title to this property in trust for the congregation of The Falls Church.

3. Venue is proper in this Court pursuant to Virginia law, including but not limited to Va. Code §§ 8.01-261.3 and 57-9, since the real property that is the subject of this petition lies entirely within the City of Falls Church.

4. Although the division described below and in the attached report (which is incorporated by reference herein) arose on account of theological and doctrinal differences within the denomination, this Court’s action will require resolution of no theological or doctrinal issues, and can and must be effected pursuant to neutral principles embodied in Virginia law.

5. The Falls Church has provided notice of these proceedings to:

The Diocese of Virginia
c/o Russell Palmore, Esq., Chancellor
Troutman & Sanders
1001 Haxall Point
Richmond, Virginia 23219

The Episcopal Church in the U.S.A.
c/o David Booth Beers, Esq., Chancellor
Goodwin Proctor LLP
901 New York Avenue, NW
Washington, DC 20001

6. The foregoing notice does not concede or imply recognition of any legal basis for a claim of ownership by the Episcopal Church in the U.S.A. ("TEC") or the Episcopal Diocese of Virginia (the "Diocese") to The Falls Church's property.

THE FALLS CHURCH'S PROPERTY

7. The Falls Church currently occupies several parcels of real property located in a triangle bounded by Broad Street, South Washington Street, and East Fairfax Street in the City of Falls Church, Virginia, and certain other property in the City of Falls Church. The Falls Church's historic church—construction of which was completed in 1769—and a cemetery and other facilities are located in the triangle.

8. The parcels owned by the Trustees of The Falls Church are all or portions of the land acquired in the following deeds:

Deed dated March 19, 1746 from John Trammole to the Vestry of Truro Parrish, recorded among the land records of Fairfax County, Virginia in Liber B, No. 1 at page 248.

Deed dated March 20, 1746 from John Trammole to the Vestry of Truro Parrish, recorded among the land records of Fairfax County, Virginia in Liber B, No. 1 at page 249.

Deed dated December 16, 1852 from Nathan Thompson to A. C. Brent, et als, Trustees of the Episcopal Church known and designated as the "Falls Church", recorded among the land records of Fairfax County, Virginia in Liber S, No. 3 at page 379.

Deed dated October 1, 1918 from Harry C. Birge and Jeanne E. Birge, his wife, to Charles A. Stewart, Jonas T. Unverzagt and Harry A. Fellows, and their successors in office, Trustees for the Falls Church Episcopal Church, recorded among the land records of Fairfax County, Virginia in Liber L, No. 8 at page 593.

Deed dated October 29, 1953 from Grover H. Dodd and Nettie F. Dodd, his wife, to H.J. Spelman, Lawrence W. Harrison, and Albert H. Lester, Trustees of The Falls Church, recorded among the land records of Fairfax County, Virginia in Deed Book 1128 at page 38.

Deed dated February 27, 1956 from Anna Lee Shotwell, widow, to H. J. Spelman, Albert H. Lester and Lawrence W. Harrison, Trustees of The Falls Church, recorded among the land records of Fairfax County, Virginia in Deed Book 1418 at page 28.

Deed dated September 15, 1956 from Nellie Coleman Kadlec to H. J. Spelman, Albert H. Lester and Lawrence W. Harrison, Trustees of The Falls Church, recorded among the land records of Fairfax County, Virginia in Deed Book 1484 at page 385.

Deed dated August 30, 1963 from Lester A. Gorham and Josephine E. Gorham, his wife, to H. J. Spelman, L. W. Harrison and Albert H. Lester, Jr., Trustees of The Falls Church (Episcopal), recorded among the land records of Fairfax County, Virginia in Deed Book 2340 at page 205.

Deed dated December 15, 1986 from Independence Square Limited Partnership, a Virginia limited partnership, The Trustees of The Falls Church (Episcopal), recorded among the land records of Fairfax County, Virginia in Deed Book 6576 at page 77.

Deed dated October 31, 1996 from Ray Sims Company, a Virginia corporation, to The Trustees of The Falls Church (Episcopal), recorded among the land records of Arlington County, Virginia in Deed Book 2810 at page 2092.

Deed dated January 3, 2000 from Christian Joseph Kerge and Sonia Diez Kerge, his wife, to Harrison D. Hutson, William W. Goodrich, Jr. and Steven L. Skancke, Trustees of The Falls Church (Episcopal), recorded among the land records of Arlington County, Virginia in Deed Book 3034 at page 1081.

References to “the Property” describe these parcels of land collectively.

9. The Trustees and their predecessors have held legal title to portions of the Property since 1746, prior to the establishment of TEC or the Diocese.

10. None of The Falls Church’s deeds grant any of the Property at issue to trustees for TEC or the Diocese.

11. Purchase of The Falls Church’s property, and the construction, maintenance, and improvement of each of the buildings located on the Property, were financed by the members of The Falls Church. Similarly, the personal property that The Falls Church owns has been purchased with members’ donations.

12. Since its efforts in the founding of the Diocese in 1785, The Falls Church estimates that it has voluntarily contributed several million dollars to the Diocese (and indirectly to TEC). In the 1990s, for example, The Falls Church voluntarily contributed more than \$1.635

million to the Diocese or Diocesan ministries. Similarly, between 2000 and 2005, The Falls Church voluntarily contributed more than \$1.216 million to the Diocese or Diocesan ministries. By contrast, The Falls Church has no record of receipt of any financial support from the Diocese or TEC for building or general operational funds.

THE DIVISION IN THE DENOMINATION

13. A division has occurred in the broader “church or religious society” to which The Falls Church belonged prior to its congregational determination. The division has been acknowledged by authorities throughout the Anglican Communion, including in the Diocese of Virginia. The division has occurred at the international, national, and local levels of the denomination:

- a. There is a denominational division among a majority of the 38 Provinces of the worldwide Anglican Communion;
- b. There is a division within the United States Province of the Anglican Communion known as The Episcopal Church in the United States (“TEC”); and
- c. There is a division in the denomination’s local geographic district known as the Diocese of Virginia (the “Diocese”).

14. The division resulted from a profound theological break by TEC and the Diocese from the majority of the other provinces of the Anglican Communion, from seven other TEC dioceses, and from at least thirteen congregations within the Diocese. In Virginia alone, at least 14 congregations (13 congregations in the Diocese, and at least one congregation in the Diocese of Southern Virginia) have determined to disaffiliate from TEC and the Diocese and to reaffiliate with another branch of the Anglican Communion. The 13 congregations in the Diocese of Virginia comprise approximately 15 percent of average Sunday attendance and 19 percent of congregational operating revenue in the Diocese.

**THE CONGREGATION OF THE FALLS CHURCH
DETERMINED TO JOIN ANOTHER BRANCH OF THE DENOMINATION**

15. The Falls Church is governed by a Vestry consisting of 18 lay members elected by the congregation to promote the spiritual well-being of the congregation, to facilitate public worship services, and to manage the temporal affairs and property of the Church, including the oversight of the Church's trustees, who act at the Vestry's direction. The Vestry annually elects from among its members a Senior Warden and a Junior Warden. The Vestry carries out these functions under the leadership of the rector, or senior pastor, The Rev. Dr. John W. Yates II.

16. By majority vote of 1221 to 127 conducted in compliance with Va. Code § 57-9, the members of The Falls Church over 18 years of age voted to join another branch of the Anglican Communion.

17. Other Virginia congregations are expected to vote on the question in January 2007.

**THE FALLS CHURCH'S REPORT OF
ITS CONGREGATIONAL DETERMINATION**


18. Pursuant to Va. Code §57-9, submitted herewith is a report concerning the division and the congregation's determination to join another branch of the denomination as a result of a division within the denomination.

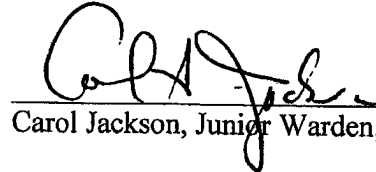
REQUEST FOR APPROVAL OF REPORT

The Falls Church is entitled to approval of its congregational determination and entry of that determination in the court's civil order book.

WHEREFORE, Petitioners request that the Court enter the report of the determination of The Falls Church dated December 17, 2006, in the Court's civil order book.

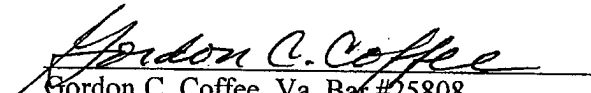
Respectfully submitted.

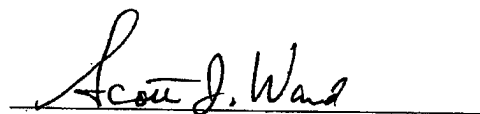

Thomas Wilson, Senior Warden, The Falls Church


Carol Jackson, Junior Warden, The Falls Church

COUNSEL:

WINSTON & STRAWN LLP


Gordon C. Coffee, Va. Bar #25808
Gene C. Schaerr
Steffen N. Johnson
Andrew C. Nichols, Va. Bar #66679
1700 K Street, N.W.
Washington, D.C. 20006
Telephone: (202) 282-5000
Facsimile: (202) 282-5100
GAMMON & GRANGE, P.C.


Scott J. Ward, Va. Bar #37758
8280 Greensboro Drive, Seventh Floor
McLean, VA 22102
(703) 761-5000
(800) 761-5002

Dated: December 18, 2006