

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

AUG 22 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

ELSINORE CHRISTIAN CENTER, a
California Nonprofit Corporation; et al.,

Plaintiffs - Appellants,

UNITED STATES OF AMERICA,

Intervenor - Appellant,

v.

CITY OF LAKE ELSINORE, a Municipal
corporation of the State of California; et
al.,

Defendants - Appellees.

No. 04-55320

D.C. No. CV-01-04842-SVW

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Stephen V. Wilson, District Judge, Presiding

Argued and Submitted October 17, 2005
San Francisco, California

Before: D.W. NELSON, RAWLINSON, and BEA, Circuit Judges.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

Plaintiffs Elsinore Christian Center and Gary Holmes (collectively the “Church”) brought suit against the City of Lake Elsinore and other defendants (collectively the “City”), alleging various violations of the Religious Land Use and Institutionalized Persons Act (“RLUIPA”) and of state and federal constitutional law when the City denied the Church a conditional use permit to use a parcel of property and an existing building on such property for religious purposes. The district court decided that the City had violated RLUIPA, but that RLUIPA was unconstitutional. The district court decided that an interlocutory appeal was warranted on the question of RLUIPA’s constitutionality, and this court agreed to hear the case on interlocutory appeal. We reverse the decision of the district court.

The district court decided, and the City does not contest on appeal, that the decision by the City to deny the Church’s CUP means that the City violated RLUIPA. The City’s argument that RLUIPA is unconstitutional was rejected by *Guru Nanak Sikh Society of Yuba City v. County of Sutter*, No. 03-17343, slip op. at 8592.

REVERSED AND REMANDED.

