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Religious Land Use and Institutionalized Persons Act

Court Cases

St. John's United Church of Christ, et al. v. City of Chicago, et al.

Chicago Mayor Richard M. Daley is determined to expand O'Hare Airport, no matter what gets in the way. And that includes two cemeteries and nearly a dozen state laws.

After several proposals for new Chicago-area airports on the city's south side failed to win support, Daley turned his attention to expanding O'Hare, already one of the world's busiest and most crowded airports.

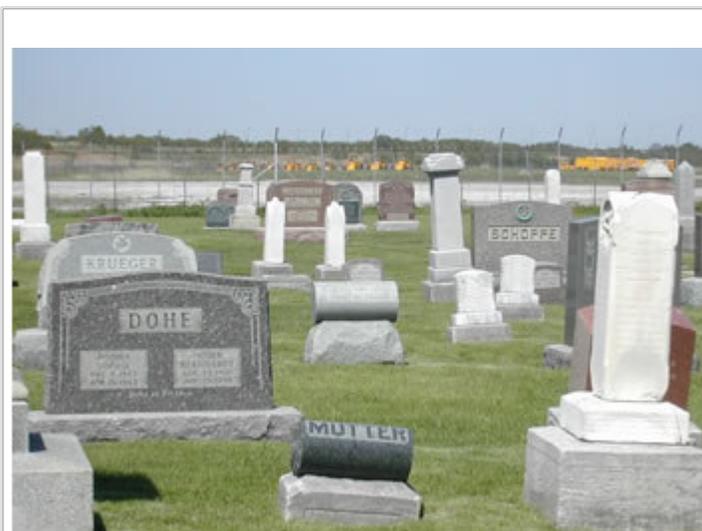
The city's plan would reconfigure the existing six runways, which allow takeoffs and landings in a variety of directions, replacing them with six parallel runways.

Construction of the southernmost east-west runway would require swallowing up a portion of the suburb of Bensenville (including some 500 moderately-priced housing units) and two cemeteries, St. Johannes and Rest Haven. St. Johannes (originally called "God's Acre") is the oldest, having been established in 1849 by a group of German immigrants, and has been in continuous use ever since. Some 1,300 people are buried there, including many Civil War veterans. All were members of St. John's Church, which was once located on the same five acre property (on a spot now marked with a cross; see photo above) and which still owns and maintains the property as an active cemetery. Rest Haven Cemetery has been in continuous use at least since the 1870s for the Christian burials of the members of two churches, the United Methodist Church of Itasca and the Emmanuel First Evangelical



Collision course - Chicago O'Hare Airport expansion plans collide head-on with religious liberty at St. Johannes Cemetery, located adjacent to an existing runway and in the path of a proposed runway

Church of Elk Grove.



Many of the headstones in St. Johannes Cemetery bear inscriptions in German, the language spoken by the early settlers who founded St. John's Church and its then-adjacent cemetery

In November 2002, St. John's Church filed suit in state court (DuPage County), charging that the city's plan was in clear violation of the Illinois Religious Freedom Restoration Act, as well as the Illinois Aeronautics Act. State Circuit Judge Hollis Webster issued an injunction blocking the city from acquiring the cemetery.

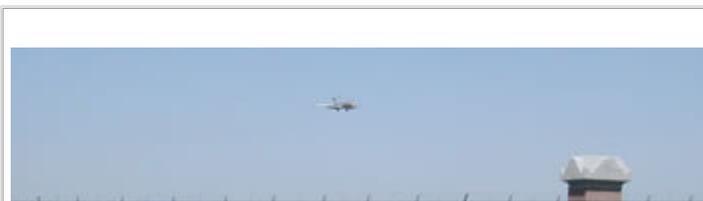
Mayor Daley and his supporters countered by drafting a piece of legislation entitled the "[O'Hare Modernization Act](#)" (OMA) (PDF format, 125K) which was passed by the Illinois legislature on May 31, 2003 and signed into law on August 6, 2003.

The OMA is an extraordinary measure that strips St. Johannes and Rest Haven Cemeteries of legal protections that apply to every other cemetery in the state, and to add insult to injury, singles them out for exclusion from the Illinois Religious Freedom Restoration Act, which now protects every other church and religious group in the state *except them*.

Among the Illinois laws that now no longer apply to the City of Chicago in the area around O'Hare Airport:

- The Illinois Religious Freedom Restoration Act
- The Archeological and Paleontological Resources Protection Act
- The Human Skeletal Remains Protection Act
- Illinois Municipal Code provisions governing cemetery removal, project applications and public corporations
- The Vital Records Act
- The Illinois Aeronautics Act

In anticipation of the bill's passage, a [federal lawsuit](#) (PDF format, 366K) was filed in U.S. District



Court on Friday, May 30, 2003. Motions were also filed for the issuance of a [Temporary Restraining Order](#) (PDF format, 57K) and a [Preliminary Injunction](#) (PDF format, 52K), seeking to prevent the Mayor and the City from doing to the cemeteries what they'd done to runways at Chicago's downtown airport, Meigs Field, in March

("bulldozing Meigs Field in the middle of the night — while courts were closed and lawyers were asleep").

On June 2, in a hearing before Judge David Coar, the City of Chicago agreed to a [court order](#) (PDF format, 22K) under which it promised "that it will not take any action in furtherance of acquiring or demolishing property in the Village of Bensenville and Elk Grove Village, either voluntarily or involuntarily, nor take any action in furtherance of acquiring St. Johannes Cemetery or Rest Haven Cemetery, or engage in disinterment within or relocation of those cemeteries, pending the July 21, 2003 hearing set on plaintiffs' Motions for Preliminary Injunction."

Two briefs in support of the motions for a TRO and PI were filed with the court: [one, prepared by The Becket Fund](#) (PDF format, 384K), focuses on the harm that would otherwise be done to the "ongoing religious exercise of St. John's Church and its members." [The other brief](#) (PDF format, 283K), prepared by attorneys Joseph Karaganis and James Knippen with support from the Washington law firm of Shaw Pittman, focuses on the non-religious federal laws being violated by the City of Chicago: the National Environmental Policy Act (acting on a project not approved by the FAA), the National Historic Preservation Act (acting without addressing environmental and historic preservation issues), and the Department of Transportation Act (protecting land of "historical significance").

Plaintiffs in the case include St. John's United Church of Christ and several members of the church with family plots at St. Johannes Cemetery, including Helen Runge, who "already has a tombstone with her name on it next to her deceased husband; all that remains is to add her date of death." Other plaintiffs include Rest Haven Cemetery Association and two of its members, the Village of Bensenville and resident Roxanne Mitchell, who owns a home targeted for destruction in the O'Hare expansion, and the Village of Elk Grove.



Approaching aircraft pass within a few hundred yards of the cemetery every few minutes. Bulldozers that could level the cemetery in short order can be seen in the background on the left

The plaintiffs are represented by The Becket Fund for Religious Liberty; attorneys Joseph Karaganis, Bruce White and John Kalich of the Chicago law firm of Karaganis, White & Magel; James Knippen, of the Wheaton law firm of Walsh Knippen Knight & Diamond; and Robert Cohn, David Cynamon, Alexander Van Der Bellen and David Lashway, of the Washington, D.C. law firm of Shaw Pittman.

(St. John's United Church of Christ, et al. v. City of Chicago, et al., U.S. District Court for the Northern District of Illinois, Case No. 03-C-3726)

News Releases:

["Hold the hallelujahs, Mayor Daley" \(August 6, 2003\)](#)

[Becket Fund moves to block Chicago from bulldozing "God's Acre" \(May 30, 2003\)](#)

Media Coverage:

[Governor signs O'Hare expansion bill \(*Chicago Tribune*, August 6, 2003\)](#)

[Relax, Daley tells Bensenville \(*Chicago Sun-Times*, by Fran Spielman, June 5, 2003\)](#)

[Shaky victory for O'Hare expansion foes \(*Chicago Tribune*, by H. Gregory Meyer and Matt O'Connor, June 3, 2003\)](#)

[O'Hare land grab is delayed until judge's decision \(*Daily Herald*, by Robert McCoppin, June 3, 2003\)](#)

[O'Hare work will wait \(*Chicago Sun-Times*, Metro Briefs, June 3, 2003\)](#)

[Cemetery lawsuit puts O'Hare expansion on hold \(ABC 7, by Paul Meincke, June 2, 2003\)](#)

[O'Hare Expansion Opponents Go To Federal Court \(NBC 5, June 2, 2003\)](#)

[O'Hare plan passes amid budget rush \(*Chicago Tribune*, by Ray Long and Christi Parsons, June 1, 2003\)](#)

[O'Hare opposition quashed \(*Daily Herald*, by Eric Krol, June 1, 2003\)](#)

[City won't rush cemetery razing \(*Chicago Tribune*, May 31, 2003\)](#)

[Mayor cleared to tear up Meigs \(*Chicago Sun-Times*, by Annie Sweeney and Abdon Pallasch, May 31, 2003\)](#)

[O'Hare expansion threatens cemetery \(ABC News 7, by Paul Meincke, May 30, 2003\)](#)