

MOTION FOR INTERIM ORDER BY THE COMPLAINANTS
IN THE TITLE IV CASE AGAINST BISHOP J. JON BRUNO,
SUBMITTED TO THE HEARING PANEL ON AUGUST 26, 2016

The Complainants in this Title IV case against Bishop J. Jon Bruno request that the Hearing Panel hold a preliminary hearing and issue an interim order, requiring Bishop Bruno to allow the congregation and community to return to St. James the Great during this Title IV case. The Complainants understand that the Church Attorney, Raymond J. "Jerry" Coughlan, will be filing papers soon to support this motion.

INTRODUCTION

Bishop Bruno locked the gates of St. James the Great on June 29, 2015, and, with the exception of one wedding and one funeral, the gates and doors have remained locked since that day. St. James the Great sits empty and unused.

There is no reason for the continued lockout. The Bishop's initial reason for closing the building was the agreement he entered on April 10, 2015, to sell the St. James the Great property for \$15 million. The sale agreement did not close and so it lapsed by its terms in July 2015. There is no current agreement to sell the St. James the Great property. Nor, because of community, city council and other concerns, is there any prospect that the bishop can soon enter a new agreement to sell the property to a commercial purchaser.

There is a vibrant Episcopal congregation *in exile* because Bishop Bruno has locked them out of their Episcopal church. Every Sunday since June 29, 2015, the St. James the Great congregation has gathered to hold Episcopal services. Led by Reverend Voorhees, and by visiting priests from near and far, the St. James the Great congregation has met in a nearby park, in a local museum, in the community room at the city hall. Pictures showing the congregation, both in the church before the lockout and in exile thereafter, are in Exhibit 1.

There is no financial reason for the Bishop to keep the doors of St. James the Great locked. If the Hearing Panel requires the Bishop to allow the congregation to return to St. James the Great, the congregation will resume paying the tax and other bills associated with the church building. So the Diocese of Los Angeles would *save*

money if Bishop Bruno would just let the congregation back in their church and let the congregation resume paying the associated bills. These bills are minor in the context of the congregation's current budget, which includes the salary of Reverend Voorhees, the costs of rented space, fees for the musicians, and litigation costs.

Bishop Bruno's continued refusal to open the gates of St. James the Great congregation hurts the congregation, the community, and the Episcopal Church. There has been considerable press attention to the controversy, much of it focused on the spectacle of an Episcopal bishop locking an Episcopal congregation out of their Episcopal church.

Bishop Bruno may disagree with some of the foregoing, but he cannot disagree with two central points. First, he has locked a faithful Episcopal congregation out of its Episcopal church. Second, he has no current agreement to sell the church in question nor any immediate prospect of such an agreement. These two facts alone, in our view, should lead the Hearing Panel to order Bishop Bruno to allow the congregation back into St. James the Great. An interim order to end the lockout is well within the Hearing Panel's authority, under Title IV, and it would further the purposes of Title IV, including justice and reconciliation.

FACTUAL BACKGROUND

1. History of St. James through October 2013

St. James the Great is a large, modern church complex in Newport Beach, California. The land on which the church sits was donated by the Griffith Company to the Episcopal Church in 1945. To be more specific, Griffith donated the land to Corp Sole, with a deed restriction requiring that the land be used "for church purposes exclusively." "Corp Sole" is the short term used in the Diocese for "The Bishop of the Protestant Episcopal Church in Los Angeles, a California corporation sole." As the name suggests, Corp Sole is a California corporation, for which the current Bishop of the Los Angeles Diocese serves as the sole owner and director; upon his death, resignation or removal, his successor becomes the sole owner and director. The purpose of Corp Sole is to hold real property and other assets for the use and benefit of the Diocese and the Church.

At the time Griffith donated the property in 1945, there was already a small St. James congregation, meeting in community rooms. This congregation, with some help from the diocese, raised the funds and constructed a small church building on the site in the late 1940s. The St. James congregation grew and indeed outgrew the original building. Starting in the late 1990s, the St. James congregation built a new, modern church complex on the site, using elements from the original church. Bishop Bruno consecrated this new Episcopal church in 2001. The church complex includes a beautiful sanctuary that holds about three hundred people, a parish hall that holds about two hundred people, and several large classrooms.

In August 2004, there was a vote by the St. James congregation to “disaffiliate” from the Episcopal Church and declare the church to be Anglican. Bishop Bruno commenced litigation against the Anglican congregation soon thereafter seeking to recover the St. James property for the Episcopal Church. After an extended battle in the civil courts, Bishop Bruno prevailed in the St. James litigation in 2013 and recovered possession of the church.

In October 2013, at a grand service, Bishop Bruno re-consecrated St. James the Great as an Episcopal Church. (The new name distinguished the Episcopal congregation from the old Anglican congregation, which continued to worship nearby under the name St. James Anglican.) Bishop Bruno asked the new vicar, Reverend Canon Cindy Evans Voorhees, and the people of the community, to work to form a new Episcopal church, to build a new vibrant, inclusive Episcopal congregation—which they have done. There is a video of parts of this service at <https://www.youtube.com/watch?v=eEJLPgh8Ev0>.

We should note that, before she was ordained, Cindy Evans Voorhees was a well-known ecclesiastical architectural consultant; she worked from about 1999 through late 2001 on the new design and new construction of St. James, among many other projects. She was ordained in 2005, elected to the Standing Committee in 2007, and elected as its President in 2010. She was elected a Director of the Corporation of the Diocese in 2010 and re-elected for a second term.

2. History of St. James the Great through the June 2015 Lockout

Starting from scratch in the fall of 2013, Reverend Voorhees and the new congregation built up St. James the Great. Reverend Voorhees recruited acolytes and altar guild and choir and donors and musicians and ushers. She dealt with some issues in the building, such as a telephone system that did not work. She opened bank accounts and recruited a finance team, which prepared a budget for calendar year 2014, and she and the stewardship team solicited and obtained pledges for that first full calendar year of the new congregation.

Attendance at Sunday services grew from a handful in the fall of 2013 to a hundred and more in the spring of 2014. The St. James the Great congregation was active in the community, working at a local homeless shelter, providing space for a Brownie troop, for coding and cooking classes, for a youth symphony board—activities that brought dozens of people *other than congregation members* into the church complex every week. The budget for the 2015 calendar year envisaged more than \$500,000 in income; there were twice as many pledges for calendar year 2015 as there had been in calendar year 2014. Through generous donations, the congregation was “on track” in the first few months of 2015 to meet this budget. On an average Sunday, in early 2015, there were more than a hundred people worshipping at St. James the Great. On Easter Sunday, April 5, 2015, the church was packed with about two-hundred fifty people. We attach the program for that Sunday, to give a sense of the congregation and its many activities. Exhibit 2.

The congregation did not know that Bishop Bruno was about to sign, on April 10, 2015, an agreement to sell their church building for \$15 million to a developer, Legacy Residential Partners. The congregation did not know that Legacy planned, if it could obtain the necessary city and state permits, to tear down their beloved church building and to build instead luxury townhouses. The congregation did not know that Legacy, in late April and early May, was having preliminary conversations with city officials about obtaining the zoning changes.¹

¹ We recognize that under the Dennis Canon, Title I, Canon 7, Section 4, the St. James the Great property does not belong to the St. James the Great congregation. Nor does the property belong to Bishop Bruno; it is “held in trust for this Church and the Diocese.” The congregation views St. James the Great, however, as “their church,”

To help it in this legal and political process, Legacy Residential hired Bettencourt & Associates, a real estate consulting firm headed by Philip Bettencourt. On Sunday May 10, 2015, a Bettencourt employee attended services at another local Episcopal church, in Costa Mesa. When asked why he was there, this Bettencourt employee said that he was looking at options for those affected by the sale and closure of St. James the Great. Legacy, when it learned of this premature disclosure of the still secret sale agreement, was outraged. On Monday May 11, Philip Bettencourt wrote an email to Tim O'Brien, the senior local person for Legacy, trying to explain why his employee was attending services at this other Episcopal church. Bettencourt reminded O'Brien that, in order to demolish the existing buildings at St. James the Great, and build townhouses, Legacy would need a number of permits from the City of Newport Beach. He listed some of them: an environmental initial study, a mitigation negative declaration, a general plan amendment, a zone change, a site development permit, a local coastal plan amendment, and a traffic fitness test. Bettencourt noted that Legacy would also need to obtain similar approvals from the California Coastal Commission. Bettencourt then reminded Legacy, in bold type, that "**community controversy would not be helpful.**" This was an artful understatement. Bettencourt should have said that serious community opposition would make it *impossible* for Legacy to obtain the necessary permits. Exhibit 3.

On Sunday May 17, 2015, after church services at St. James the Great, Bishop Bruno announced to a stunned and outraged congregation that he had sold their buildings to Legacy Residential for \$15 million. There was immediate media attention to the sale and to the opposition to the proposed sale.

On June 10, 2015, Griffith Company, the original donor of the land, reminded Bishop Bruno that Griffith Company gave the land in 1945 for "church purposes exclusively." We now know that Bishop Bruno immediately shared the June 10 Griffith letter with Legacy, and that Legacy promptly shared this letter with its silent partner in the purchase, AIG Global Real Estate ("AIGGRE"). See Exhibit 4.

just as most Episcopal congregations view their buildings. Indeed, if anything, the congregation is *more passionate* about the buildings today than it was before Bishop Bruno locked the doors.

On June 15, 2015, Mayor Diane Dixon held a town hall meeting to discuss the St. James situation at the old city hall. More than two hundred people attended, filling the room and flowing out into the hallways. More than a hundred were wearing red Save St. James the Great t-shirts, to express their opposition to the proposed sale and destruction of the church. The headline in one news report read "Congregation Rallies Against Balboa Peninsula Church Sale." Exhibit 5.

On June 23, 2015, the Newport Beach City Council discussed the proposed zoning changes at the St. James the Great site. Mayor Dixon praised the overall zoning plan for Newport Beach, saying that "it is clear that having local community churches that are easily accessible to residents is a big part of what makes our community special." Council Member Kevin Muldoon concurred, saying that he was a "big supporter of St. James the Great and the zoning as it is." Council Member Keith Curry said he was concerned about the lack of space for worship in Newport Beach and decried the Bishop's treatment of the congregation as "despicable." Curry said that he would consider "very carefully" at any proposal to reduce the land dedicated to church uses in Newport Beach. Council Member Scott Peotter also said that he supported the existing zoning and that the Council would "look closely at this property when the project is brought forward." These public statements from a majority of members strongly suggest that the Newport Beach City Council would not grant Legacy the permits and zoning changes that it needs. There is a video of the relevant part of this council meeting at:

<https://www.youtube.com/watch?v=NtrzYDmTqEc>

At about this time AIGGRE informed Legacy that it would not proceed with the St. James transaction. We do not know the precise reasons offered by AIGGRE: whether it was more concerned about the title question raised by Griffith or by the opposition at the City Council. It seems likely that Legacy informed the Bishop in June that, because it no longer had its partner AIGGRE, Legacy probably could not close the purchase on the extended closing date of July 10, 2015.

The congregation did not know, in June 2015, when the sale to Legacy would close or when, thereafter, Legacy would start demolition. Bishop Bruno refused to provide this information to the congregation; indeed, he refused to talk with

congregation representatives after June 9, 2015, despite a commitment at a meeting on that date that he would do so. Fearing that the sale of their church property to a developer, and the destruction of their church building, might both be imminent, some members of the congregation and community formed a non-profit corporation, Save St. James the Great ("Save"). Save filed a civil lawsuit against Corp Sole on June 24, 2015, based on the 1945 deed restriction limiting the property to "church use." The bishop's lawyers obtained extensive discovery in this civil case, including the depositions of six members of the congregation. The trial court dismissed the case, finding that Save "lacked standing" to enforce the 1945 deed restriction. Save has filed an appeal from this decision to the California Court of Appeals.

On June 26, 2015, Corp Sole (through Bishop Bruno) filed a lawsuit against the Griffith Company, arguing that a 1984 quitclaim deed entirely eliminated the 1945 deed's church use restriction. Bishop Bruno sought not only to "quiet title"; he claimed that Griffith had "slandered his title" and he sought punitive damages from Griffith. The bishop's lawyers obtained extensive discovery in this case as well, questioning many current and former Griffith employees. The Superior Court denied a motion by Griffith to dismiss the title slander count and then granted a motion by the bishop's lawyers for summary judgment on the title, finding that the California Marketable Title Act removed the 1945 "church use" restriction. There are two separate appeals pending, from those two separate rulings, in the Griffith case. Given the timing of appeals in California, and the possibility of further proceedings at the trial court, these cases are many months from resolution.

On June 28, 2015, St. James the Great was packed for what many feared would be the last church services in that sacred space. Bishop Bruno had announced, at the May 17 meeting, that this would likely be the last Sunday service. Some members of the congregation hoped, on June 28, that because of the legal questions about the 1945 deed, that Legacy would not close the purchase, and that the Bishop would allow the congregation to continue to use St. James the Great for a few weeks or months.

On the afternoon of June 29, 2015, without warning to Reverend Voorhees or the congregation, the Bishop sent representatives to St. James the Great, including a locksmith, to change the locks and close the building and the grounds. Some members of the congregation were present to have evening vesper services; the Bishop's representatives told them to leave so that they could "secure the building." Because there was no notice of the lock-out, many members of the congregation and the community had personal property "locked behind the gates" by the Bishop's representatives.

3. The Lockout Injures the Congregation

On Sunday July 5, 2015, and for many months thereafter, Reverend Voorhees and the St. James the Great congregation, locked out of their church, worshipped in nearby Lido Park. The congregation, in the winter, worshipped in rented space at the Gray Matter Museum; the congregation now worships at the Newport Beach City Hall. The church buildings and grounds sit locked and unused, with an ironic banner behind the closed gate: "All Welcome." A picture of the congregation in front of the locked gate and the banner is part of Exhibit 1.

Even if there was a reason for the Bishop to lock the church and grounds on June 29 (and we doubt that) there was no reason for him to continue the lock-out after July 10, 2015. That was the last and final date set for the closing of the sale to Legacy; when that date passed without a sale, the Legacy agreement terminated by its own terms. There was no purchaser "waiting in the wings" to justify the Bishop's continued lock-out of the congregation. Bishop Bruno did not even speak with the St. James congregation, to explain to them why he kept their church locked against them and all others. Legacy has confirmed, through an April 18, 2016, letter to Griffith, that there is no pending sale agreement for the property. See Exhibit 4.

Reverend Voorhees and the St. James the Great congregation have survived and adapted. It was not easy: bringing each Sunday morning all the elements for church: chairs, tables, vestments, musical instruments, speakers, cables and the like. It was not completely safe: there were problems with elderly parishioners walking across the uneven grass and in one case a car knocked down a member of the congregation crossing the street. Parents were concerned about their children's

safety, with services so close to the street, and there was and is essentially no place to hold Sunday School. And yet on some summer Sundays we have had more than two hundred people attending Episcopal services in the park as St. James the Great.

The congregation has adapted, but there is no question that Bishop Bruno's actions have *injured* the congregation. We have not been able to have baptisms or funerals in the church: we now have seven children waiting to be baptized in the church. Some parishioners have *died* and we have not been able to mourn their deaths and celebrate their lives in the church. We no longer have Sunday school classrooms; Sunday school has had to meet outside and in hallways. As a result, from an average attendance of about eighteen, and growing, we are now down to about seven children in our Sunday school. We have lost young families because we do not have an effective Sunday school. One child, not long after the lockout, asked a Sunday school teacher: "Why has Jesus locked us out of our church?" The question itself shows the injury this child has suffered, indeed the whole congregation has suffered and is suffering. We do not have offices in which to hold church meetings, we do not have a space for quiet midweek prayer, we do not have the safety and security and beauty of our church on Sunday mornings.

Bishop Bruno himself, in 2004, at the time the Anglicans took over St. James, described this injury well. In the complaint against the Anglicans, which he personally signed and verified, Bishop Bruno said that "each day Defendants' wrongful occupation of the Parish premises continues, Plaintiffs suffer irreparable harm. The Parish was built over a 55-year period by and for Episcopalians. The Episcopal Church's assets—including donations and money and irrevocable trusts made on the condition that the Parish would remain forever an Episcopal Parish, as its founders promised it would—are being used to fund an attack on the Episcopal Church. Likewise, its altars, chalices, organs, bibles, prayer books and hymnals, all donated by and for Episcopalians, are being used to conduct rites of a foreign non-Episcopal church. The faithful members of the Parish are in exile. They have been denied a place to worship as Episcopalians, a place for Episcopal weddings and funerals, and all of the Episcopal services and comforts the Parish once provided.

Many faithful Episcopalians have been buried in the Parish for the very reason that it was consecrated by the Episcopal Church." See Exhibit 6.

Bishop Bruno's words apply with even greater force today. The St. James the Great congregation is in exile. Bishop Bruno has denied a faithful Episcopal congregation its proper place to worship. He has denied them the use of the church building, the organ, the pews, the stained glass windows, the parish hall, the courtyard. If anything the situation is more serious in 2016 than it was in 2004. At that time, Episcopalians who wished could worship with the Anglicans. Nobody worships today in St. James the Great.

4. The Lockout Injures the Community

The Bishop, by locking and closing the church and grounds, has harmed the *community* as well as the congregation. Trish Norman, not a member of the congregation, buried her mother's ashes in the rose garden at St. James. When the Bishop locked and closed the grounds, he denied Mrs. Norman the right to visit the site of her mother's burial. The *Orange County Register* carried a front-page story describing Mrs. Norman's plight. See Exhibit 7. Susan Hartmann, not a member of the congregation, used the church meeting room for her Brownie troop. As a "thank-you" the Brownie troop built and donated to the church an herb garden, dedicated on Sunday April 26, 2015. When the Bishop locked the grounds, the Brownies lost not only their meeting room but also their garden. See Exhibit 8. Ounie Phakosounh, not a member of the congregation, used the church's classrooms to teach computer programming to young children. The innovative program, called "Holy Coding," brought many children and adults into the church for the first time. The Bishop himself highlighted, in his *Episcopal News* in February 2015, this innovative cooperation between the church and the computer community. See Exhibit 9. When the Bishop locked the buildings, Holy Coding ceased because St. James the Great no longer had classrooms in which to teach coding.

The loss of the building has hurt the congregation's ability to work *with* the community. When the Brownie troop met at the church, they would often see Reverend Voorhees, and vice versa; she was, in the words of the troop leader, a role model for the young girls. When the congregation was in the church, homeless

people would sometimes stop by the church office, meet with Reverend Voorhees, get a gift card for a meal at McDonald's. That cannot happen when Reverend Voorhees is forced, by the lockout, to work from her home. Indeed, one or two homeless people would sometimes attend church services on Sunday morning, and then stay to enjoy our substantial lunch afterwards. Our chef, Patrick DiGiacomo, used the kitchen not just to prepare the Sunday meal, but also for cooking classes, including cooking classes for autistic children. These classes, in which Chef Patrick showed the children that they could cook, were in the words of some of their parents "the best thing ever" for their children. No church building means no kitchen means no cooking classes for autistic children.

The neighborhood has also joined with the congregation in opposing the proposed sale and destruction of the church building. The church building stands at the entrance to an island community, Lido Isle, originally developed by Griffith Company. The Lido Isle Community Association recently sent a survey to all residents of Lido Isle, asking whether they would prefer to see the St James property remain a church, as at present, or be developed into townhouses, as proposed by Legacy. The result was overwhelmingly one-sided: over 92% of respondents favored keeping St. James the Great *as a church*. Many of those who protested, at the June 2015 town hall meeting, were not members of the congregation, they were concerned members of the community. See Exhibit 9A.

5. The Lockout Injures the Episcopal Church

Bishop Bruno's actions, in locking the congregation and community out of St. James the Great, have divided the Diocese of Los Angeles. At the diocesan convention, in December 2015, St. James the Great was a major issue: there were several related resolutions on the agenda, including one calling on Bishop Bruno to open St. James the Great and end the property litigation. None of these resolutions passed, although the votes were close, in part because Bishop Bruno made an extended argument about why it made sense for him to sell St. James the Great for \$15 million. Bishop Bruno did not mention—he arguably misled the convention by failing to mention—that there was no longer any agreement to sell the property at that price. Nor did he explain why he continued to lock the congregation out of the

church, given that there was no prospect of sale for many many months. We anticipate that, if the congregation is still locked out at the time of the upcoming diocesan convention, in December 2016, the Bishop's continued lockout will again inflame and divide the diocese.

Bishop Bruno's lockout hurts the broader Episcopal Church. There has been considerable national press attention to the bishop's lockout of the congregation. For example: on April 7, 2016, *Episcopal Café* published an article titled "Forty Weeks in the Wilderness." The article described the plight of the St. James the Great congregation, locked out of their church by their bishop. Exhibit 10. On May 21, 2016, the *Orange County Register* published an article titled "They Were Kicked Out of Their Church, but the Exiled Episcopalians Keep Faith." Exhibit 11. On July 26, 2016, there was a long article about Bishop Bruno and St. James the Great in *The Living Church*, an online publication read by thousands. The photo showed Reverend Voorhees leading worship services in the rented city hall space. Exhibit 12.

The civil cases regarding the St. James the Great property continue, costing each of the parties (Corp Sole, Save St. James the Great, and the Griffith Company) thousands of dollars each month. The Griffith case, in which the bishop is suing a donor, for damages and punitive damages, simply because it insists on the original terms of the donation, is especially troublesome for the Episcopal Church. For present purposes, the key point about the civil cases is that they will take months if not years to resolve. There is no prospect that Bishop Bruno can sell the property before these cases are resolved—and yet he continues to keep the congregation and community "out on the street."

ARGUMENT

Bishop Bruno, in his response, will probably insist that it made good sense in April 2015 to sign the agreement to sell the St. James the Great property for \$15 million. The Complainants disagree, but it does not matter for present purposes. There is no current contract for the sale of St. James the Great. There is civil litigation pending about the title to the St. James the Great property that will take months if not years to resolve. The present question for the Hearing Panel is

whether, in this context, it makes any sense to allow Bishop Bruno to keep the congregation and the community locked out of St. James the Great while this Title IV case is pending.

On this narrower issue, we anticipate that Bishop Bruno will say something like this: "I hope and expect to prevail in the pending civil cases on appeal. When I do, I hope and expect to enter into a new sale agreement, with Legacy Residential or with another purchaser, to sell the St. James the Great property. To stand ready for that sale, I need to keep the property clear of a congregation that opposes the sale and the destruction of their church. I need, therefore, to keep the doors of St. James the Great locked, to allow a sale that will yield \$15 million for the Episcopal Church."

There is no prospect of a \$15 million sale now. That price reflected Legacy's assessment, in April 2015, of its chances of getting the necessary permits to develop the property. Bettencourt's email of May 11, 2015, shows that, even then, Legacy was worried about whether it would obtain the necessary permits, concerned about community opposition. St. James the Great sits in an area in which individual townhouses and condos sell for two or three million dollars or more. If Legacy in April 2015 was *certain* that it could obtain the approvals, the proper price for the property would have been \$20 or even \$30 million. On the other hand, if the property cannot be re-developed, if it must remain a church, then neither Legacy nor any other commercial developer will purchase it. The proper price, in that scenario, would be perhaps \$3 or \$4 million, the price for a *church* rather than a development property. Any chance of selling the property for \$15 million ended in June 2015, when the City Council made clear that it would in all likelihood *not* approve the zoning changes for redevelopment.

But the Bishop may insist: even if the price is less than \$15 million, he has decided to sell this property, and he needs to keep the property clear in order to facilitate the sale. Nonsense. The Bishop, for Corp Sole, signed an agreement with Legacy to sell the property in April 2015 with the congregation in place. He could in theory sign an agreement at a lower price in the future, however much the congregation and the community would hate such a sale.

Bishop Bruno might also argue that he is entitled, under the Los Angeles Canons, to dissolve a mission and to sell its property. But Bishop Bruno *has not dissolved the St. James the Great mission*. The reason is clear: Bishop Bruno could not in good faith argue that a mission congregation that attracts two hundred people to services in a park has “failed in its mission.” The St. James the Great congregation is larger than most Episcopal parishes in America. The congregation is managing to worship God and serve the community *in spite* of Bishop Bruno’s lockout. The mission has not failed; it is succeeding against long odds.

We suggest that the real reasons why Bishop Bruno keeps the doors of St. James the Great locked are much more simple. Bishop Bruno is a powerful person. He is not used to opposition, he does not like opposition. The St. James the Great congregation has opposed and (in his mind) blocked his plans to sell St. James the Great. (The real obstacles are the 1945 Griffith deed, with its “church purposes” restriction, duly recorded in the property records, and the Newport Beach City Council, firmly opposed to this re-development, but the Bishop *sees* the congregation as the cause of his troubles.) And so Bishop Bruno has punished the St. James the Great congregation by locking the doors of their church, forcing them to worship outside in the park. Indeed, one could easily see his actions, not just locking the doors but refusing to meet or talk with the congregation, and stopping their priest’s salary and benefits, as an all-out attempt by Bishop Bruno to destroy the St. James the Great congregation.

Bishop Bruno’s counsel are also likely to raise several procedural points. His counsel may note that there is no specific provision in Title IV for an Order directing a Bishop to reopen the doors of a closed church. There is no provision because, as best we can tell, no Episcopal bishop or priest has ever before locked a viable Episcopal congregation out of their church building. More generally, Title IV of the Canons is designed to be broad and flexible and allows for the Interim Order requested. Section 6 of Canon 14 of Title IV provides that a Hearing Panel may issue an Order that includes “any terms which promote healing, repentance, forgiveness, restitution, justice, amendment of life and reconciliation among the Complainant, Respondent, affected Community and other persons.” “Any terms” means any

terms, including a term that requires a bishop to give the keys to a church back to the congregation while the Hearing Panel considers and decides other issues. We cannot think of an Interim Order that would do more to promote justice and reconciliation and healing than a simple order by this Hearing Panel directing Bishop Bruno to let the St. James the Great congregation back into its church.

The bishop's counsel may insist that canon 13 of Title IV envisages a sequential process for the Hearing Panel: first the Church Attorney files the statement of Offenses; then the Respondent files his answer; then there is a period for the exchange of document and witness lists; then there is a Scheduling Conference; and so on. But this ignores section 5 of canon 13 of title IV which provides the framework for "pre-hearing motions and challenges." This is a pre-hearing motion. Section 5 provides that "responses shall be filed by the non-moving party within 15 days of receipt of the motion or challenge. Upon receipt of a motion or challenge, the Hearing Panel will promptly set the matter for hearing. The hearing may be conducted by conference call. After consideration of the argument of the parties, the Hearing Panel shall render a decision within three days of the hearing." If the bishop's counsel suggests that only a *party* may file a motion under this provision, we note again that we understand that the Church Attorney, Jerry Coughlan, will soon file papers to support this motion.

All the Complainants are asking is something akin to a preliminary injunction in civil court. In that context, courts consider two questions: first, whether the party seeking the preliminary injunction is likely to prevail on the merits, and second, whether the party seeking the preliminary injunction is suffering irreparable injury. The Complainants satisfy both elements of this familiar test. The Complainants are likely to prevail on the merits on the narrow question raised here: whether it is "Conduct Unbecoming a Bishop" for an Episcopal bishop to lock an Episcopal congregation out of its Episcopal church. And the Complainants are suffering, every week, serious injury, the injury of being excluded from their Episcopal church, of being forced to worship in exile. We note that Bishop Bruno

used this very same word, “irreparable,” to describe the injury that the Anglican takeover was causing to Episcopalians in 2004. He cannot, in good faith, argue that the injury the St. James the Great congregation is suffering today is any less severe than that about which he complained to the courts at that time. Indeed, the injuries of the current congregation are more severe.

The bishop’s counsel may also argue that, by entering an Interim Order, the Hearing Panel would be “pre-judging” the issues in this case, before there is time to develop the full factual record. But the Hearing Panel will note that we have said almost nothing in this Motion about the main issues in this Title IV Case: whether Bishop Bruno lied to the congregation and to the community; whether Bishop Bruno observed the rules requiring Standing Committee approval for the sale of sacred property. The *only* issue that the Hearing Panel has to decide, for purposes of this motion, is whether it is right for an Episcopal bishop to lock an Episcopal congregation out of its Episcopal church. That issue is an easy one, which the Hearing Panel can and should resolve in short order, to let the exiled congregation back into their church.

Letting the congregation and the community back into St. James the Great would *simplify* this Title IV case. The Complainants would be less pressing in their requests for an early hearing date for the main issues in the case if they were back in their church. The Complainants would still prefer to see those issues resolved sooner rather than later—they worry that Bishop Bruno intends to drag this Title IV case out so long that he retires before it is completed—but the Complainants would not be suffering the week-by-week injury of having to set up and take down all the elements of church. To put the point another way, if Bishop Bruno prevails on his procedural point, if the Hearing Panel does not allow the congregation back in to St. James the Great on this motion, a year could pass before the final hearing in this Title IV case. In what sense would keeping the congregation out of St. James the Great for another year serve the interests of the Episcopal Church? In what way would it promote justice, reconciliation, and healing?

The procedures for a hearing on the issues raised in this motion are set out in section 5 of canon 13 of title IV. Bishop Bruno has fifteen days to file his response to this motion. The Hearing Panel should “promptly” set a date for a hearing on this motion. We urge that the hearing should be by telephone, so that it can be held as soon as possible. If the Complainants call a witness at this hearing, there will be only one witness, Reverend Voorhees. We believe there is only one witness for the Respondent, Bishop Bruno. The issues are simple. Bishop Bruno cannot deny that he has locked the church and that there is no current agreement for the sale of the church property. That is the crux of the situation: a church locked against all the world by a bishop.

CONCLUSION

The Complainants request that the Hearing Panel enter an Interim Order, requiring Bishop Bruno, during this Title IV case, to allow the congregation and community to return to St. James the Great.

Walter B. Stahr, for the Complainants
August 26, 2016