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Federal Appeals Court rules in favor of Chabad Small victory for Orlando synagogue sparks new hope for Hollywood group

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The story is one Hollywood residents know too well. A Chabad house opens its doors in a residential neighborhood, and finds itself drawn into a battle with neighbors and municipal officials who claim that they do not belong in a residential area. The municipality rules against Chabad and the Feds are brought in on the grounds that the synagogue's religious freedoms have been violated.

South Floridians familiar with the case of the Hollywood Community Synagogue's ongoing battle with the City of Hollywood may be surprised to learn that the story synthesized above takes place in Orlando, Florida, more than 200 miles away from the Hollywood neighborhood embroiled in a similar conflict.

But Rabbi Joseph Konikov of Chabad of South Orlando has recently won a small victory that gives new hope to the Hollywood Community Synagogue's case.

In 2001, Rabbi Konikov began holding prayer services in his home, located in the

tial problems with the county's code.

The appellate court found that nonreligious gatherings, such as biweekly scout meetings or regular parties to watch sports on TV, would not violate the county code, while Konikov's gatherings would. "In other words," the court's opinion states, "a group meeting with the same frequency as Konikov's would not violate the code, so long as religion is not discussed. This is the heart of our discomfort with the enforcement of this provision."

Rabbi Joseph Korf, Spiritual Leader of the Hollywood Community Synagogue, feels that Konikov's appellate victory makes the Hollywood Chabad's case even stronger. According to Korf, Rabbi Konikov "never applied for a Special Exception, which we did. We followed all of the City's rules, and our requests were granted by the Development Review Board. It was the City Commission that overturned the Board's decision."

Now, the Department of Justice is suing the City of Hollywood, accusing the Commission of violating the same Federal



The Hollywood Community Synagogue is embroiled in a battle with neighbors and city officials over the two houses on 46th Avenue used for prayer services.

Law cited by the appellate court in the Orlando case, known as RLUIPA (pronounced "R-LOOPA"). The acronym stands for Religious Land Use and Institutionalized Persons Act, and it says that governments cannot enforce land-use regulations that impose a

"substantial burden" on religious groups. If they do, there must be a compelling reason.

Rabbi Konikov's victory, though cause for celebration in Chabad circles, is by no means the end of the fight. His case has been

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remanded back to the Federal District Court in Orlando, where it may be heard under the provisions spelled out in the appellate decision. Or, as Assistant County Attorney Gary Glassman told the Orlando Sentinel, the county may appeal and try to get the case heard by the U.S. Supreme Court.

Sand Lake Hills subdivision of Orange County. Neighbors complained, and Code Enforcement officers ordered that the prayer meetings stop, citing local laws prohibiting "any function related to a synagogue and/or church services" in a residential area. According to Konikov's attorney, John Stemberger, the neighbors spearheading the action against Chabad were Sand Lake Hills Homeowners Association President Beverly Boyer, who also chairs the Orange County Code Enforcement Board, and Association Treasurer, Denise Crotty, whose father-in-law, Richard Crotty serves as Orange County Mayor.

Konikov attempted to negotiate with the county, who gave the Rabbi 60 days to stop the prayer gatherings or be fined \$50 per day. The county refused to negotiate, and the fines today total \$55,500. On March 27, 2002, Konikov filed a Federal lawsuit challenging the county's zoning code and calling it unconstitutional.

A federal court in Orlando issued a summary judgment in the case, siding with Orange County and dropping Konikov's complaint. Konikov appealed, and the appellate court found in his favor, partially reversing the lower court's ruling and noting poten-

In both Hollywood and Orlando, Chabad supporters in each case have accused their neighbors and government officials of Anti-Semitism. Both have cited numerous cases of churches and other religious institutions that operate in residential neighborhoods with full municipal approval. In Orange County, one house used for a church youth group was found to meet county approval, even though, according to attorney John Stemberger, the house creates more parking, traffic, and secondary impact than Konikov's.

County Attorney Gary Glassman disagrees. "I think anyone who says Orange County, of all places, is being anti-religious is being ridiculous," said Glassman. "We didn't see this as some large religion issue. Nobody wanted to stop him from praying. It was bringing excessive cars and people into the neighborhood."

In contrast to the Hollywood case, Konikov has settled with his neighbors with regard to the number and frequency of meetings he will hold in his home, as well as issues involving traffic and parking. Konikov's case is now in the hands of the attorneys and governing bodies.

Rabbi Korf, on the other hand, faces what he calls excessive scrutiny by Chabad's neighbors. "We have been exemplary neighbors," said Korf, "but they complain about imaginary violations." According to Korf, neighborhood residents walk by the house every day, trying to find the slightest thing out of place, and file reports with code enforcement officials.

The Chabad rabbis in both counties anticipate a final ruling in their favor and look forward to peaceful coexistence with their neighbors for years to come.