



CONGREGATIO PRO CLERICIS

DECREE

Prot. N. 20100682

1. Whereas the Most. Rev. Timothy A. McDonnell, Bishop of Springfield, [the Ordinary] created the Office of Pastoral Planning in 2004 in order to address the configuration of the parishes of the Diocese in light of the reduction in the number of priests and faithful in the Diocese.
2. Whereas the Office of Pastoral Planning provided for a consultation of priests and faithful of the Diocese to consider the amalgamation of parishes and the reduction of churches to profane but not unbecoming use, referred to in the acts as the “closing” of a church (cf. can. 50 CIC).
3. Whereas the Ordinary consulted the Presbyteral Council on 5 August 2008 with regard to the amalgamation of the parish of St. Stanislaus Kostka with the Parish of Notre Dame in the town of Adams, citing the requirements of can. 515 §2 CIC, making no mention of the reduction of the church of St. Stanislaus Kostka to profane use. The Presbyteral Council was presented with the “Report and Recommendations of the Diocesan Pastoral Planning Committee”, which formed the basis of the consultation.
4. Whereas the attestation to the consultation of the Presbyteral Council referenced only can. 515 §2 CIC, to which no objection was raised with respect to the merger of the parishes in question.
5. Whereas the Ordinary’s decision was communicated to the parishioners of the above named parishes orally on 9 August 2008 and in written form on 15 August 2008, in the format of a letter.
6. Whereas Laurie D. Hass *et al.* [the recurrences] wrote to the Ordinary seeking clarification as to whether the letter of 9 August 2008 constituted his decision, and thus his Decree, or merely manifested his intention with regard to a future canonical act. If a Decree, the recurrent’s letter was to be considered a request for its revocation in accord with the provisions of can. 1734 CIC; if merely an indication of a possible decision however, the recurrent’s letter requested the formal Decree.
7. Whereas on 26 August 2008 the Ordinary acknowledged receipt of the recurrences’ letter, noting some motivations for his decision, which the recurrences reasonably assumed to be his negative response.
8. Whereas on 8 September 2008 the recurrences made hierarchical recourse to the Congregation for the Clergy [the Congregation] against the Ordinary’s presumed Decree in accord with the provisions of Can. 1737 CIC.
9. Whereas the Ordinary issued a formal decree for the “merger” of the parish of St. Stanislaus Kostka with the parish of Notre Dame on 8 October 2008 [the Decree], the seat of the new parish (named “Pope John Paul the Great”) being the church of Notre Dame, although it is not clear that this *formal* document was ever communicated to the community of the faithful to which it is addressed (Acts, Vol. I, Exhibit 5).

10. Whereas the Ordinary, having been averted by the Congregation to the deficient nature of his Decree of 8 August 2008 with respect to the reduction of the church of St. Stanislas Kostka to profane use, reconvened the Presbyteral Council on 6 October 2009 for the consultation required by can. 1222 §2 CIC, although noting that the consultation of 5 August 2008 was understood by all concerned to be directed to this act, albeit having neglected to cite can. 1222 §2 CIC: the Ordinary issued a formal Decree to reduce the church of St. Stanislas Kostka to profane but not unbecoming use on 5 November 2009. It is not clear whether this decree has been communicated to the community of the faithful to whom it is addressed.
11. Whereas, in view of the canonical confusion surrounding the impugned Decrees, which risks injuring the right of the faithful to exercise their canonical right of recourse, the hierarchical recourse is accepted from the recourants as being within the peremptory time limits both with regard to the amalgamation of the parish of St. Stanislas Kostka with the parish of Notre Dame and the reduction of the church of St. Stanislas Kostka to profane use. The Law provides for certain qualities in an administrative act the better to ensure the rights and duties of the faithful. Consequently a Decree, being a singular administrative act, is, *inter alia*, to be given in writing (cf. cann. 37 & 51, *salvo prescripto can. 55*); it is to be issued in a timely manner (cf. Can. 57); the competent authority is to collect the information necessary and to consult those whose rights may be harmed (cf. can. 50); it is to give, at least in summary form, the reasons for its decision (cf. can. 51); it is to be directed explicitly and *ad rem* to a concrete particular situation (cf. can. 48);

EVALUATION OF THE FACTS:

12. A Hierarchical Recourse is by its nature a documentary process which proceeds on the basis of examination of authentic documents provided by interested parties at the request of the Dicastery; thus, having provided ample opportunity for all interested parties to respond, the Dicastery judges as complete the documentation in its possession and proceeds therefore to its decision *per cartas*;

SUPPRESSION / MERGER OF THE PARISH:

13. Noting that a Parish is a public juridic person (cf. c. 515 §3 CIC) and therefore enjoys the quality of perpetuity (cf. c. 120 §1 CIC) to allow it to reach the ends for which it is established, but also requiring the means sufficient for it to reach that purpose (cf. c. 114 §3 CIC), and that a parish is a specific type of juridic person established within a Particular Church, namely a certain community of the faithful with a priest as its proper pastor, which therefore cannot lack a priest as its proper pastor.
14. Whereas the procedure followed for the suppression / merger of Parishes cannot be faulted and was quite exhaustive, it must nonetheless be pointed out that while demographics, finances and available priestly personnel are elements which must be considered, other arbitrary criteria, while useful statistically, are of doubtful validity in the context under discussion; furthermore, the pastoral situation created by the shortage of clergy has remedies which are to be considered as indicated in c. 526 §1 and c. 517 and in the Inter-dicasteriale Instruction *Ecclesiae de mysterio* (cf. Practical Provisions, Article 4, *The Parish Priest and the Parish*). In the instant recourse, the possibility foreseen in c. 526 §1 had already been utilized since 2003;
15. Noting that a Decree of the Supreme Tribunal of the Apostolic Signatura of 22 May 2009 (prot. n. 37280/05 CA) stated, «*Decretum suppressionis feratur, denique, saltem summarie expressis motivis (cf. can. 51). Qua in re, "Episcopus diocesanus...iuxta suam prudentem discretionem procedere potest, excluso vero arbitrarietate"* (decreta Congressus diei 3 maii 2002, prot. Nn. 33219/01 CA; 32220/01 CA; 32238/01

CA). *Hac in ratione perpendenda, non solum condicio paroeciae consideranda est, verum etiam totius dioecesis, ut totius dioecesis saluti animarum meliore quo fieri potest modo, provideatur. Nullum tandem "ius christifidelium agnoscitur ad determinatam paroeciam, cum illis sufficiat paroecia quaedam, quae eorundem curam pastoralem expleat"* (cf. v.g. *decreta Congressus dierum 12 octobris 1995, prot. N. 25323/94 CA; 18 ianuarii 1996 prot. N. 25465/94 CA; 12 octobris 1995, prot. N. 25530/95 CA*);

16. Whereas the Dicastery accepts that the procedures followed in the specific matter of the merger of St. Stanislaus Kostka parish, were correct and that the motivations presented in the Acts for the same are reasonable and in accord with c. 515 §2;

RELEGATION OF THE CHURCH TO SECULAR BUT NOT UNBECOMING USE

17. Noting that while the instant recourse of 8 September 2008 to the Congregation seeks the revocation of both the Decree of amalgamation and the reduction of the church of St. Stanislaus Kostka to profane use, the recurrences communicated to the Ordinary on 20 September 2008 that "Both Your Excellency and the Parishioners concur that prudent stewardship of resources requires consolidating the two existing parishes and three existing churches in Adams into a single parish.../...Hence the only real controversy concerns whether the Notre Dame/St. Thomas site or the St. Stanislaus site is the better candidate to house the parish that will emerge from the consolidation". The acts verify this as the real object of controversy in the recourse;
18. Whereas the original formal Decree of 08 October 2008 makes mention of c. 515 §2, it makes no mention of the closing of St. Stanislaus Kostka church or of c. 1222 §2, and yet the Minutes of the meeting of the Council of Priests of 5 August 2008 merely mentions the "closing" of the "parish" of St. Stanislaus Kostka;
19. Whereas abstract criteria cannot be applied in the decision of reduce a church to secular but not unbecoming use, and applied to the church of St. Stanislaus Kostka in particular, since it already has the canonical status of a church in the sense of c. 1214, to which the faithful have "*ius...adeundi ad divinum cultum praesertim publice exercendum*", unless this right is legitimately modified;
20. Whereas the Minutes of the meeting of the Council of Priests of 6 October 2009 illustrates that the priests consulted at the aforementioned meeting of 5 August 2008 considered themselves to be deciding on the reduction of the church of St. Stanislaus Kostka *inter alias* to profane use, the minutes do not illustrate that any further consideration was given to the reasons *ad rem* that the church in question should be so secularized;
21. Whereas the modification of a Parish does not in any way automatically include the closure or modification of its Church or its relegation to profane use, but instead requires both a *gravis causa* and an objective and separate process of consultation (cf. c. 1222 §2). It seems that this understanding was inoperative in the matter of the closure of the church of St. Stanislaus Kostka and, as a result, the public access of the Faithful for worship was denied once the Parish was modified, as the church was thereby effectively closed;
22. Neither the acts nor the impugned Decree demonstrate the grave cause which motivates the decision to reduce the church of St. Stanislaus Kostka to profane but not unbecoming use, and thereby neglect to demonstrate what avenues have been pursued to preserve its sacred character without detriment to the pastoral care and patrimonial stability of the newly created parish of "Pope John Paul the Great", notwithstanding that such grave motivations may exist in fact.

23. Noting that it is for the Ordinary to determine the seat of a Parish (cf. cann. 1215 §1; 1217; 533 §1 CIC) and to determine the designation of oratories (cf. can. 1223 CIC), mindful of the provision of can. 1214 CIC;
24. Observing the provisions of cann. 1254, 1276; 1292 §2 CIC in relation to the church of St. Stanislaus Kostka with respect to popular pious practices, heritage, architectural and artistic merit;


Wherefore the Congregation decrees:

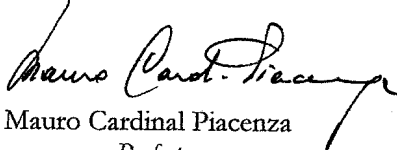
With regard to the recourse against the amalgamation of the parish of St. Stanislaus Kostka with the parish of Notre Dame in Adams, that this petition for recourse as presented, has no canonical basis in law or in fact and is hereby rejected both *de procedendo* and *de decernendo*.


With regard to the reduction of the church of St. Stanislaus Kostka, Adams, to profane but not unbecoming use, that this recourse as presented is rejected *de procedendo*, since the necessary consultation took place and the Ordinary understood himself to be issuing a decree of reduction to profane use, but the recourse is upheld *de decernendo* insofar as the necessary grave motivations for the decision are not provided in the acts.

Recourse against this Decree may be made before the supreme Tribunal of the Apostolic Signatura within the peremptory time limits established in the Apostolic Constitution *Pastor Bonus*, art. 123 §1.

Given at the Seat of the
Congregation for the Clergy
25 January 2011




Mauro Cardinal Piacenza
Prefect


Mons. Celso Morgia Iruzubieta
Titular Archbishop Elect of Alba marittima
Secretary