

Religious liberty invoked to protect solar panels, tent cities for homeless

by [G. Jeffrey MacDonald](#) in the [September 28, 2016](#) issue

Religious liberty claims have often been used by conservatives to defend Christians-only clubs on campus and merchants who won't serve LGBTQ people.

But progressives are now invoking the First Amendment to advance causes of their own. As they see it, social action is integral to living out their faith, and local ordinances can't take away their rights.

They're pressing ahead, for instance, with plans to install solar panels over a local board's objections in Massachusetts and to establish tent cities for the homeless in California and Michigan.

Their inspiration comes in part from the state of Washington, where 15 Seattle-area congregations have hosted tent cities on grounds that they're following a religious imperative.

"There are civic organizations that would like to host, but it's more complicated for them because the law specifically protects the right of religious organizations," said Polly Trout, founder of Patacara Community Services, a nonprofit provider of services for Seattle tent cities. Even if a church owns no land, it can rent property for as little as \$1 and host a tent city as a protected religious use, which Trout encourages faith communities to do.

A test case is unfolding in Middlesex Superior Court in Massachusetts. In June, the First Parish in Bedford, a Unitarian Universalist church, sued the Bedford Historic District Commission for allegedly violating its religious rights when the board denied a permit to install solar panels atop the 1817 meetinghouse.

"The HDC erred when it refused to consider First Parish's religious beliefs and the constitutional and statutory protections for the free exercise of religion," according to the 25-page lawsuit. The claim quotes a 2006 Unitarian Universalist Association statement urging the faithful to "instigate sustainable alternatives" to practices that fuel climate change.

And to serve the homeless, progressives are increasingly hanging their hopes on religious liberty.

Homelessness is growing in 16 states, according to the 2016 report *State of Homelessness in America*. Where tent cities have sprung up, activists have pushed to follow Seattle's model by making them official with designated terms and basic infrastructure, including defined perimeters, security, and sanitation.

Such efforts have met stiff opposition from city councils and neighbors, who have cited safety and health concerns. But rather than give up, proponents are invoking their religious rights.

In Sacramento, a coalition of activists has set up tent cities six times since 2009, despite a city ordinance that bans camping for more than one night in any one location. No tent city has survived city efforts to disband them.

But now the coalition is teaming up with the Interfaith Council of Greater Sacramento, which has agreed to sponsor a tent city if a landowner will offer a parcel for that purpose. Involving ICGS would make the project a religious use, the activists believe, and protect it under the First Amendment.

"With all the other tent cities that we set up with civil disobedience, there was no religious entity as an umbrella," said Libby Fernandez, director of Sacramento Loaves and Fishes, a religious nonprofit that provides services for 600 homeless people a day.

"That's why we really want to shift, and that's our next goal if we can find a parcel," said Fernandez, a member of the Roman Catholic Sisters of Mercy. "The owner, along with some of the neighbors, would work with Interfaith to say: 'This is a religious right to take care of our homeless people.'"

Progressive activists say the invocation of religious liberty is no panacea, nor is it a license to disregard the objections of neighbors affected by their projects. Addressing opponents' concerns remains essential for any cause to succeed, Fernandez said.

But confidence in religious rights has helped keep initiatives alive despite entrenched opposition. Activists recall, for example, what happened in the 1990s when the city of Sacramento took steps to shut down Loaves and Fishes' then unpermitted

weekend soup kitchen. The organization responded by changing its charter from secular to religious nonprofit. Immediately the city backed off, Fernandez said, thus allowing the weekend outreach to keep growing as a free exercise of religion.

In Ann Arbor, Michigan, the secular nonprofit Mission A2 group has tried for four years to establish a small tent city or tiny-house community for homeless people, who currently camp illicitly in woods where they have no behavioral codes, sanitation, or other facilities. Neighbors and city councilors have consistently opposed it.

Now the group owns a remote 3.5-acre parcel near Interstate 94 and is pursuing a variance to circumvent the municipal camping ban. If the council again says no, the group would be willing to lease or sell the land to a religious group that might have more latitude, according to Lynn McLaughlin, the group's executive director.

"If a faith community came to us and said, 'You sell us that property and we'll utilize the First Amendment right to put a tent community there,' that would be fine," McLaughlin said. "We're not so hung up on owning the property. We'd like the end result." —Religion News Service

*This article was edited on September 12, 2016.*