Table 7-2

THE APPLICATION OF PUBLIC ACCOMMODATION LAWS TO CHURCHES: A REVIEW OF THE LEADING CASES IN CHRONOLOGICAL ORDER

CASE	HOLDING
Traggis v. St. Barbara's Greek Orthodox Church, 851 F.2d 584 (2d Cir. 1988)	A church had not violated a Connecticut law banning several kinds of discrimination in places of public accommodation because churches are not a place of public accommodation.
Roman Catholic Archdiocese v. Commonwealth of Pennsylvania, 548 A.2d 328 (Penn. 1988)	Parochial schools run by a Catholic church are not places of public accommodation under Pennsylvania law.
Presbytery of New Jersey v. Florio, 40 F.3d 1454 (3rd Cir. 1994) aff'd 99 F.3d 101 (1996)	In dismissing a church's request for an injunction barring the state from applying against churches a public accommodations law banning discrimination based on sexual orientation, the court relied in part on the following assurance provided by a state civil rights agency: "It has been the consistent construction and interpretation of the [law] that, consonant with constitutional legal barriers respecting legitimate belief and free exercise protected by the First Amendment, the state was not authorized to regulate or control religious worship, beliefs, governance, practice, or liturgical norms, even where ostensibly at odds with any of the law's prohibited categories of discrimination."
Wazeerud–Din v. Goodwill Home & Missions, Inc., 737 A.2d 683 (1999)	A church's addiction program was not a place of public accommodation under New Jersey law; the group was essentially religious in nature in that it devoted time to the study of Christian tenets and "a religious institution's solicitation of participation in its religious activities is generally limited to persons who are adherents of the faith or at least receptive to its beliefs.
Donaldson v. Farrakhan, 762 N.E.2d 835 (Mass. 2002)	The Massachusetts Supreme Judicial Court considered whether a public accommodation law applied to a religiously affiliated event that was not open to women. The event in question was a speaking event promoted, organized, and funded by a mosque, and presented by minister Louis Farrakhan at a city-owned theater, to address drugs, crime, and violence in the community. The court found that the event was not a "public, secular function" of the mosque. The court also found that application of the public accommodation law to require the admission of women to the event "would be in direct contravention of the religious practice of the mosque" because it would impair the "expression of religious viewpoints" of the mosque with respect to the "separation of the sexes" and the role of men in the community. The court thus further held that the "forced inclusion of women in the mosque's religious men's meeting by application of the public accommodation statute" would "significantly burden" the mosque's First Amendment rights of expression and association.
Sailant v. City of Greenwood, 2003 WL 24032987 (S.D. Ind. 2003)	"The church is not a place of public accommodation."
Vargas–Santana v. Boy Scouts of America, 2007 WL 995002 (D.P.R. 2007)	"As a matter of law, a church is not a place of public accommodation."
Abington Friends School, 207 WL 1489498 (E.D. Pa. 2007)	In a case involving the interpretation of the exemption of religious organizations from the public accommodations discrimination provisions in the Americans with Disabilities Act, the court quoted from the ADA regulations: "Although a religious organization or a religious entity that is controlled by a religious organization has no obligations under the rule, a public accommodation that is not itself a religious organization, but that operates a place of public accommodation in leased space on the property of a religious entity, which is not a place of worship, is subject to the rule's requirements if it is not under control of a religious organization. When a church rents meeting space, which is not a place of worship, to a local community group or to a private, independent day care center, the ADA applies to the activities of the local community group and day care center if a lease exists and consideration is paid. *28 C.F.R. Pt. 36, App. B (2007).*
Sloan v. Community Christian School, 2015 WL 10437824 (M.D. Tenn. 2015)	This case addressed the definition of "a place of public accommodation" under Title III of the ADA rather than a state or local public accommodations law. Nevertheless, its discussion of this key term provides some clarification, even if by inference. It suggests that churches that operate "a day care center, a nursing home, a private school, or a diocesan school system," may be places of public accommodation subject to the nondiscrimination provisions of a local or state public accommodations law.
Barker v. Our Lady of Mount Carmel School, 2016 WL 4571388 (D.N.J. 2016)	"Although churches, seminaries and religious programs are not expressly excluded from the definition of 'place of public accommodation,' the legislature clearly did not intend to subject such facilities and activities to the [public accommodations law]. Thus, the claims against these institutional defendants fail as a matter of law."
Fort Des Moines Church v. Jackson, 2016 WL 6089642 (S.D. Iowa 2016)	A federal district court in Iowa refused to issue an injunction preventing state and local public accommodation laws from being enforced against it, since there was no injury to be redressed. The court referenced an exception in the law for churches and an affidavit from the state and city defendants that they had never applied the law to churches. But the court cautioned that a church that "engages in non-religious activities which are open to the public" would not be exempt, and it cited as examples "an independent day care or polling place located on the premises of the place of worship."
Hitching Post Weddings v. City of Coeur d'Alene, 172 F. Supp. 3d 1118 (D. Idaho 2016).	A federal district in Idaho ruled that the ministers of a "religious corporation" lacked "standing" to challenge the constitutionality of a municipal public accommodations law that they believed violated their constitutional rights of speech and the free exercise of religion because of their apprehension that they would be punished for refusing to perform same-sex marriages. The court concluded that the religious corporation lacked standing to litigate its claims since its concerns over future punishment for violating the ordinance was not a sufficient injury to satisfy the standing requirement. The court noted that no church had ever been prosecuted for violating the ordinance, and that the city attorney had informed the church that it would not be prosecuted.