

2014 WL 4730075 (Fla.Cir.Ct.) (Trial Order)
Circuit Court of Florida.
Eleventh Judicial Circuit
Appellate Division
Miami-dade County

DIOCESE OF NEWTON MELKITE CHURCH, Petitioner,
v.
CITY OF MIAMI, a Municipal Corporation, Respondent.

No. 13-325 AP.
September 16, 2014.

Opinion

[Bernard S. Shapiro](#), Judge.
[David C. Miller](#), Judge.
Miguel M. De La O, Judge.

*1 Opinion filed: September 2, 2014.

On Petition for Writ of Certiorari from the Miami City Commission.

Amy Boulris, Esq. and Juan Muniz, Esq. of Gunster Yoakley & Stewart P.A. for Petitioner John Greco, Esq. Deputy City Attorney for Respondent

Before BERNARD SHAPIRO, DAVID C. MILLER, and MIGUEL DE LA O, JJ.

DE LAO, Judge.

Before this Court is a petition for writ of certiorari filed by the Diocese of Newton Melkite Church (“Diocese”). The Diocese asks this Court to quash the Miami City Commission’s (“City”) quasi-judicial decision to designate St. Jude Melkite Catholic Church (“St. Jude”) as a local historic site. We grant the Diocese’s writ and quash the City’s decision.

I. BACKGROUND.

St. Jude is located at 1501 Brickell Avenue, Miami. Framed by Brickell Avenue’s modern high-rise residential towers and a landscaped courtyard, the sixty-eight year old church and its garden occupy a one-acre strip of very expensive real estate in Miami. “Today the Church assembles more than 1,000 worshipers on a busy Sunday or feast day, and regularly involves more than 1,000 families.” City of Miami Historic and Environmental Preservation Board, Designation Report (March 2013) at 16 (“Designation Report”).¹ Reverend Damon Geiger, the pastor of St. Jude, appeared at the July 25, 2013 Public Hearing held before the City (“Public Hearing”), and testified:

Each day St. Jude Parish is open from 7:00 in the morning until at least 6:00 at night, and sometimes later. The church is never empty of people. There are always people who are there who come to pray, meditate, light candles, experience God, and they come to invoke the aid of St. Jude. They seek to have their baptisms and weddings there because it’s the shrine of St. Jude, a much loved saint.

Over 15,000 people usually come on his Feast Day in October each year to our parish.... People do not come as sightseers for the beauty of the structure as tourists, students of architecture and history. They come to pray.

... [I]t's a Melkite Greek Catholic Parish Church, There are presently only two Melkite Catholic parishes in Florida, and only about 45 in the whole country.

The present parish membership is rapidly expanding, more than any of our sister parishes in the United States.... We must have the freedom to one day expand the church building for our needs if it becomes necessary.

Transcript of Public Hearing at 69-70.

In August 2012, rumors began circulating among St. Jude's parishioners that the Diocese had plans to sell St. Jude.² The rumors prompted a group of current and former parishioners to seek St. Jude's designation as a historic structure – in an attempt to block any sale of the property – pursuant to the City's Historic Preservation Ordinance.³ Miami, Florida Municipal Code, Ch. 23 *et. seq.* (the “Ordinance”). Under the Ordinance, any person may file a petition for review by the City's Historic and Environmental Preservation Board (“Board”) to determine if the City should consider an individual property for historic status – with or without the consent of the property owner. *See* Ordinance, § 23-4(c)(1). The Diocese opposed the petition for designation.

*2 In February 2013, the Board, in response to the petition for designation, authorized a preliminary evaluation to determine whether St. Jude met the criteria for eligibility, and instructed its staff to prepare the Designation Report with recommendations.

After reviewing the proposed site, the Board's staff deemed St. Jude historically and architecturally significant and recommended it for historic designation. The staff identified as notable the church's Romanesque style, built on a cruciform cross plan, an architectural style reflecting the 10th century Renaissance period and embodying a period of revival and reformation of ecclesiastical designs. The staff found of particular significance the architects who designed the church, *i.e.*, the architectural firm of Henry Dagit and Sons. The Philadelphia firm specializes in designing ecclesiastical buildings for the Catholic church. Various architectural magazines have featured the firm's work, although no articles were identified featuring St. Jude.

The Designation Report highlighted certain events associated with St. Jude which were important in Miami's history. Specifically, the Designation Report mentioned Operation Pedro Pan and an all-girls academy established and operated for 30 years by the Sisters of Assumption, a Catholic Order originating in France and based in Philadelphia (the “Academy”).⁴ The Sisters of Assumption *briefly* provided shelter - for no more than two weeks, if that - at the Academy to a “few girls” who arrived in Miami through Operation Pedro Pan. *See* Monsignor B. Walsh, 13 JOURNAL OF INTERAMERICAN STUDIES AND WORLD AFFAIRS, at 378 (1971) (*available at* <http://www.jstor.org/discover/10.2307/174929?uid=3739600&uid=2134&uid=2&uid=70&uid=4 &uid=3739256&sid=211045411797171>) (last visited August 19, 2014).⁵ In addition, it provided meals for boys who were living at a house across the street from the Academy. Designation Report at 13. The Academy closed in 1976. *Id.* at 15. “[I]n 1978, the school's ground and buildings were sold to a New York investor that demolished the school to build a 41 -story luxury condominium.” *Id.*⁶

Based on the staff's preliminary evaluation and recommendation, the Board convened two public hearings to determine whether to approve, deny, or amend the Designation Report. At the conclusion of the final public hearing, the Board voted 4-2 to adopt the Designation Report and designate the site as historic. However, the Board's rules require a minimum of 5 votes to approve a structure for historic designation. As a result, the Board's positive vote actually constituted a denial. The Petitioning Parishioners filed a timely appeal to the City.

*3 In July 2013, the City heard the Petitioning Parishioners' appeal and overturned the Board's 4-2 decision. The City passed Resolution 13-0306, which reversed the denial of designation issued by the Board and designated St. Jude as a "local historic site." The City did not make any findings of its own; it relied exclusively on, and adopted as its own, the Designation Report's findings that St. Jude (1) has historical and architectural significance, (2) possesses integrity in design, setting, materials, workmanship and association, and (3) meets the criteria for designation, *i.e.*, criteria 3, 5, and 6 of section 23-4(a) of the Ordinance.

The Diocese, as the owner of the property, filed the pending petition for writ of certiorari.

II. THE WRIT.

The Diocese asks this Court to quash the City's decision designating the church as historic for two reasons.

First, the Diocese argues the City misapplied the special eligibility criteria which must be met for historical designation of religious properties. The City's historic designation ordinance expressly excludes properties owned by religious institutions or used for religious purposes unless the religious property derives its *primary* significance from its architecture, artistic distinction or historical importance rather than its religious purpose. This criterion requires a comparison of the site's religious importance *versus* its historical or architectural importance. St. Jude is owned by the Melkite Catholic mission and is continuously used for religious purposes. The Diocese contends that St. Jude, as an active, thriving, and growing parish, derives its primary significance from its religious mission rather than any association with the historical or architectural trends of the community. The Diocese contends the City failed to perform such a comparison and, therefore, it failed to abide by the essential requirements of the law.

Second, the Diocese argues that the City's findings are not supported by competent and substantial evidence because they are grounded in the historical significance of a structure - the Academy of the Assumption - which no longer exists, and has not existed for over 30 years, rather than on the historical significance of St. Jude.

III. STANDARD OF REVIEW.

In reviewing the City's decision, this Court employs a three-prong standard of review applicable to quasi-judicial decisions rendered by local bodies. The three-part test consists of: (1) whether procedural due process was accorded, (2) whether the essential requirements of the law have been observed, and (3) whether the administrative findings and judgment are supported by competent substantial evidence. *Fla. Power & Light Co. v. City of Dania*, 761 So. 2d 1089, 1092 (Fla. 2000); *Haines City Community Dev. v. Heggs*, 658 So. 2d 523, 530 (Fla. 1995). We first find that the City's decision was not in accord with the essential requirements of the law. Independently, we hold that there is a lack of competent substantial evidence to support the City's decision to designate St. Jude as historic.

IV. THE CITY FAILED TO APPLY THE CORRECT CRITERIA FOR DESIGNATING AN ACTIVE CHURCH A HISTORIC STRUCTURE.

We find that the City failed to conduct a comparative analysis of St. Jude's historic importance *versus* its religious significance. As such, the City failed to address the "primary significance" criterion, a critical prerequisite before a religious structure can be designated as historic.

A. THE ORDINANCE REQUIRES A FINDING OF PRIMARY SIGNIFICANCE WHEN APPLIED TO PROPERTIES OWNED BY RELIGIOUS INSTITUTIONS.

The Ordinance authorizes the City to designate and list as landmarks certain sites, buildings, structures and properties of significant historical or architectural value for the purpose of preserving exceptional properties which embody the heritage of Miami. A structure merits landmark designation if it “possesses integrity of location, design, setting, materials, workmanship, feeling, and association,” and meets one or more delineated criteria, including an association with significant historical events or historical figures, embodiment of distinctive construction characteristics, the work of a master, or yielding information important to history or prehistory. Ordinance, § 23-4(a).

*4 Of paramount importance to our discussion here, properties owned by religious institutions or used for religious purposes are ordinarily ineligible for historic designation unless the religious property derives its primary significance from its architectural or artistic distinction or historical importance.⁷

Criteria exceptions. Ordinarily ... properties owned by religious institutions or used for religious purposes,... shall not be considered eligible for listing in the Miami register of historic places. However, such properties will qualify for designation... if they fall within the following categories:

(7) A religious property deriving primary significance from architectural or artistic distinction or historical importance.

Ordinance, § 234(b)(7).⁸ The Designation Report, and the City, recognized the need for the City to apply the “primary significance” test to the designation of St. Jude. Designation Report at 6; Transcript of Public Hearing at 101-02; 233-35.

The Ordinance does not delineate how to determine “primary significance.” However, it is a fundamental principle of statutory construction that all words must be given meaning. See *Sch. Bd. of Palm Beach County v. Survivors Charter Sch., Inc.*, 3 So. 3d 1220, 1233 (Fla. 2009) (“Basic to our examination of statutes,... is the elementary principle of statutory construction that significance and effect must be given to every word, phrase, sentence, and part of the statute if possible, and words in a statute should not be construed as mere surplusage.”) (citations omitted). Therefore, it is insufficient for the City to find St. Jude has historical or architectural significance. Such an application of the Ordinance’s criteria would give meaning only to the term “significance,” rendering the term “primary” as mere surplusage.

The Ordinance recognizes that a religious structure being considered for designation may have historical and architectural significance in addition to religious significance. The very point of section 4(b) is to prevent the designation of a religious site whose religious significance exceeds its secular significance. Therefore, to qualify for designation, St. Jude’s historical or architectural significance must exceed its religious significance.

To determine the primary significance of St. Jude, it logically follows that a comparison of the various factors must be made to determine which is primary. If St. Jude today derives its primary significance from its religious nature, then the City’s designation would be erroneous -regardless of the historical and architectural significance of St. Jude to Miami.

The National Park Service, which oversees the federal historic preservation program, has developed guidelines and examples to be used as an analytical framework by local authorities. National Park Service, *How to Apply the National Register Criteria for Evaluation*, NATIONAL REGISTER BULLETIN (available at <http://www.nps.gov/nr/publications/bulletins/pdfs/nrb15.pdf>) (last visited August 29, 2014). It lists several examples of religious structures deemed to possess significant historical legacies to warrant federal preservation grants.

*5 • Boston’s Old North Church is renowned for the start of the American revolutionary war. Lanterns were hung from its steeple signaling to Paul Revere whether the British were approaching by land or by sea.

- The Mount Bethel Baptist Church in Washington DC was, in 1875, the site of the first congregation of former slaves. That church is also linked to Martin Luther King, Jr.'s civil rights movement.
- The Baltimore Cathedral, built in 1802, is the first cathedral constructed in America and deemed a world-famous example of 19th Century monumental architecture.

See C. Sproule, *Federal Funding For The Preservation Of Religious Historic Places: Old Federal Funding For The Preservation Of Religious Historic Places: Old North Church And The New Establishment Clause*, 3 Geo. J. L. & Pub. Pol'y 151, 155 (2005). These examples of extraordinary historical events are significant in American history, and the religious property's historical significance overshadows and eclipses the religious aspects of these churches today.

As a result, federal authorities have upheld the validity of the historic designations of these churches even though they are currently, actively, and continuously used as houses of worship. The Office of Legal Counsel of the U.S. Department of Justice has endorsed the use of federal historic preservation grants for active houses of worship; rejecting the suggestion that the mere use of a church as its planned function constitutes its “primary significance.” See M. Edward Whelan, III, *Authority of the Department of the Interior to Provide Historic Preservation Grants to Historic Religious Properties Such as the Old North Church* (April 2003) (available at <http://www.justice.gov/olc/opiniondocs/op-olc-v027-p0091.pdf>) (last viewed August 19, 2014). Therefore, requiring that the structure be void of any and all religious import or function is not a requirement which would render a church ineligible for historic status, contrary to the Diocese's contentions,

B. CITY FAILED TO FOLLOW ESSENTIAL REQUIREMENTS OF LAW.

The City determined that St. Jude embodies distinguishing architectural characteristics and sufficiently commemorates the City's history to warrant designation. The City found that many of Miami's significant historical events, persons, ideas, or ideals have evolved in and around St. Jude. Designation Report at 19. In effect, the City claims St. Jude played central roles in the historical development of Miami.

Examples cited by the City of the church's deep historical roots include its involvement in the arrival of unaccompanied Cuban children to Miami via Operation Pedro Pan, the education of women via Sisters of Our Lady of Assumption's Catholic school for girls, and the harboring of exiled Cuban Catholics such as the Carmelite Sisters of Cuba. *Id.* The Designation Report also addressed notable construction techniques, representing the works of master ecclesiastical architects, and identified key architectural features of the church which embody architectural styles of the period.

We do not review these historical or architectural claims for accuracy or significance, as neither of those issues is properly before us on certiorari review. The issue before us is whether the City applied the “primary significance” criteria. We find the City did not because it failed to address whether these contributions and attributes override St. Jude's religious significance. Regardless of how lengthy a report the City relies upon, or the depth of its discussion of St. Jude's architectural and historical significance, the City cannot satisfy the criteria set forth in the Ordinance if it does not compare those factors to the church's religious significance. See *Irvine v. Duval County Planning Comm'n*, 466 So. 2d 357, 366 (Fla. 1st DCA 1985) (“Regardless of which party bears the burden of proof, an agency's failure to make adequate findings of fact in its order constitutes a departure from the essential requirements of law.”) (Zehmer, J. dissenting), *quashed*, 495 So. 2d 167 (Fla. 1986) (approving Judge Zehmer's dissent).⁹

*6 The record before us is devoid of *any* comparative analysis of St. Jude's religious importance versus its historical and architectural importance. The Designation Report section applying the criteria for designation is a page and a half long. See Designation Report at 19-20. It makes the conclusory claim that “Saint Jude Melkite Catholic Church derives its primary importance from its architectural, artistic and historical significance as it relates to the historic heritage of Miami,” without a single word comparing this significance with the church's religious purpose. Indeed, the 27 page Designation Report devotes only two sentences to the religious significance of St. Jude's today - and none comparing its religious significance to its

architectural and historical significance.¹⁰ This failure is fatal under the Ordinance and compels us to conclude that the City did not follow the essential requirements of the law.

V. THE CITY'S DECISION IS NOT SUPPORTED BY COMPETENT SUBSTANTIAL EVIDENCE.

Even if the City had applied the correct criteria, the City's claims of historic significance pertain to a structure that no longer exists – the Academy. As detailed in the Designation Report, in 1978, the Academy, once located on four of the church's five acres of property, was sold to a New York investor who demolished the academy and constructed a 41-story luxury condominium. Designation Report at 15. There is no evidence in the record about what secular role, if any, the remaining church structure (the only one at issue here) played in Operation Pedro Pan, the education of women by the Academy, or the harboring of exiled Cuban Catholics such as the Carmelite Sisters of Cuba,¹¹ Since a site's historic significance is embodied in its association with actual achievements, razing a building destroys the property's significance and association with historic events and persons. In fact, the City's Ordinance specifically excludes designation of buildings that have been moved from their original location or reconstructed. Ordinance, § (4)(b). When a building is razed, its historical significance does not transfer to adjoining structures. In this case, the 1978 razing of the Academy casts serious doubt as to the historic significance of the remaining property. There is no basis in the record to support a claim that the surviving property has retained the identity for which the all-girls academy was deemed by the City to be historically significant. As such, there is an absence of competent substantial evidence supporting the City's designation of St. Jude as historic.

We cannot forecast what evidence would qualify as competent and substantial evidence of St. Jude's historical significance. Ascribing historic significance to a site is always a subjective endeavor. The Federal guidelines for application of national historic register criteria are not subjective, however. They are highly instructive - if not binding - in interpreting the Ordinance. These guidelines provide that “[a] religious property cannot be eligible simply because it was the place of religious services for a community, or was the oldest structure used by a religious group in a local area.” National Park Service, *How to Apply the National Register Criteria for Evaluation*, NATIONAL REGISTER BULLETIN at 27 (*available at <http://www.nps.gov/nr/publications/bulletins/pdfs/nrb15.pdf>*) (last visited August 29, 2014).

*7 Under certiorari review, “the evidence relied upon to sustain the ultimate finding should be sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusion reached.” *DeGroot v. Sheffield*, 95 So. 2d 912, 916 (1957). We cannot reasonably accept the City's decision to designate St. Jude's as historic when it is clear on the record before us that the property's historic integrity was fatally compromised since the time of its alleged historic role.

VI. CONSTITUTIONAL CONCERNS.

St. Jude argues persuasively that the City's findings are mere rote repetition of the factors listed in the City's historic preservation ordinance. For the reasons already set forth, we agree. The City has a responsibility to do more than set forth as its findings conclusory restatements of the criteria set forth in the Ordinance. There is a very good reason why religious properties are not ordinarily subject to historic designation. As the Designation Report recognized:

A religious property requires justification on architectural, artistic, or historic grounds to avoid any appearance of judgment by government about the validity of any religion or belief.

Designation Report at 6. Congress has recognized that even “laws ‘neutral’ toward religion may burden religious exercise as surely as laws intended to interfere with religious exercise.” 42 U.S.C. § 2000bb (1993).

From the earliest days of our republic the Supreme Court has recognized that the power to tax is the power to destroy. *See M'Culloch v. Maryland*, 17 U.S. 316, 327 (1819) (“An unlimited power to tax involves, necessarily, a power to destroy; because

there is a limit beyond which no institution and no property can bear taxation.”). See also *Murdock v. Pennsylvania*, 63 S. Ct. 870, 874 (1943) (“Those who can tax the exercise of this religious practice can make its exercise so costly as to deprive it of the resources necessary for its maintenance.”).

When a property is designated historic, it is subject to regulations and requirements which do not afflict non-historic properties. See *E. Bay Asian Local Dev. Corp. v. Calif.*, 13 P.3d 1122, 1133 (Cal. 2000) (designating a religious entity's noncommercial property as a landmark “may burden [free exercise of religion] right, [therefore] an accommodating exemption is a proper, constitutionally permissible, secular purpose. The exemption in question here seeks only to relieve religious entities of a potential burden on free exercise.”) (citation omitted).

Although listing on the National Register does not itself trigger any federal regulatory restrictions, numerous states and local governments impose extensive restrictions on historic properties. See, e.g., Daniel R. Mandelker, *Land Use Law* §§ 11.22-11.34 (3d ed. 1993); Christopher D. Bowers, *Historic Preservation Law Concerning Private Property*, 30 Urb. Law. 405, 409 (1998) (“Many historic preservation ordinances (or state law) require a person to obtain approval from either the local commission or the governing body of the city or county to alter a historic property, or the exterior of a structure on that property, or to place, construct, maintain, expand, or remove a structure on the property.”).

See M. Edward Whelan, III, *Authority of the Department of the Interior to Provide Historic Preservation Grants to Historic Religious Properties Such as the Old North Church*, at 96 n.5 (April 2003) (available at <http://www.justice.gov/olc/opiniondocs/op-olc-v027-p0091.pdf>).

*8 These concerns are heightened when the structure at issue is a church. The designation of St. Jude as a historic structure can affect the church's ability to carry out its religious mission if it is required to divert funds to pay for the increased expense of maintaining a historic structure. See Transcript of Public Hearing at 68-71. Such a result has serious First Amendment implications. Of even greater concern, again in the context of the First Amendment, is the fact that the church structure was built originally as a Roman Catholic chapel but is now a Melkite Greek Catholic Church. As a Melkite Byzantine church, St. Jude has structural needs and religious obligations which differ from the Roman Catholic rites. See Transcript of Public Hearing at 57-58; 67; 70-71. Designating St. Jude as a historic site runs the risk of excessive entanglement by government with the free exercise of religion.

We are not implying that the City is attempting to impose such burdens on the Diocese in order to hurt its religious mission, but rather that the unintended consequences of historic designation can impose such burdens. Therefore, the City must be careful to apply scrupulously the criteria set forth in its own Ordinance, and not simply utter the magic words it believes might satisfy appellate review. To do otherwise, weakens the “primary significance” test. Without the “primary significance” test, there is greater danger of excessive entanglement in contravention of the First Amendment, or of a government entity wielding historic designation someday as a cudgel against a religion of which it disapproves. See, e.g., *Temple B’Nai Zion, Inc. v. City of Sunny Isles Beach, Fla.*, 727 F.3d 1349, 1352-53 (11th Cir. 2013) (“Temple alleges that in response to its renewed interest in expansion, the City redoubled its efforts to designate the Temple a historic site.”).

If government action burdens the exercise of religion, but the State demonstrates that it has a compelling interest in enforcing its enactment, that interest will justify the infringement of First Amendment rights. The State, through its police power, may regulate the use of land. Landmark preservation laws enacted pursuant to legislative authority regulate land use by conserving structures with historic or esthetic significance that enhance the quality of life of all citizens. Preservation ordinances further cultural and esthetic interests, but they do not protect public health or safety. We hold that the City's interest in preservation of esthetic and historic structures is not compelling and it does not justify the infringement of First Covenant's right to freely exercise religion. The possible loss of significant architectural elements is a price we must accept to guarantee the paramount right of religious freedom.

First Covenant Church of Seattle v. City of Seattle, 840 P.2d 174, 185 (Wash. 1992) (citations omitted). See *Society of Jesus of New England v. Boston Landmarks Comm'n*, 564 N.E.2d 571, 574 (Mass. 1990) (“The government interest in historic preservation, though worthy, is not sufficiently compelling to justify restraints on the free exercise of religion, a right of primary importance. In short, under our hierarchy of constitutional values we must accept the possible loss of historically significant elements of the interior of this church as the price of safeguarding the right of religious freedom.”).

On the opposite end of the spectrum is the concern that to counter the expense associated with maintaining a structure designated as historic, the Diocese may apply for certain government grants.¹² If St. Jude's primary significance is religious, awarding the Diocese government funds to assist with its maintenance would run afoul of the Establishment Clause of the First Amendment. This was exactly the issue addressed by the Office of Legal Counsel for the Department of the Interior in 2003. See M. Edward Whelan, III, *Authority of the Department of the Interior to Provide Historic Preservation Grants to Historic Religious Properties Such as the Old North Church* (April 2003). The Office of Legal Counsel concluded that so long as the primary significance criteria for historic designation of religious properties set forth in 36 C.F.R. § 60.4 is followed, government aid to a historic church structure would not run afoul of the Establishment Clause. This is all the more reason why the City, as well as this Court, must be rigorous in its application of the “primary significance” test.

VII. CONCLUSION.

*9 For these reasons, we grant the Diocese's writ, quash the City Commission's decision, and remand this matter to the City Commission for further consideration consistent with this opinion.

MILLER, J. and SHAPIRO, J. concur.

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BERNARD S. SHAPIRO

Circuit Judge

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DAVID C. MILLER

Circuit Judge

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MIGUEL M. DE LAO

Circuit Judge

Footnotes

- 1 This is the *only* reference to the religious significance of St. Jude in the Designation Report.
- 2 Whether these rumors are or were true is not relevant to our consideration of the Writ.
- 3 The parishioners who sought the historic designation of St. Jude are hereinafter referred to as the “Petitioning Parishioners.” There is no indication in the record whether the Petitioning Parishioners represent a minority, majority, or plurality of St. Jude's parishioners.

- 4 For a brief history of Operation Pedro Pan, see “The Miami Diocese and the Cuban Refugee Crisis of 1960-1961,” TEQUESTA (Issue LXI, 2001) (available at <http://www.historymiami.org/research-miami/publications/tequesta/tequesta-2000-2010>) (last visited August 19, 2014).
- 5 The relevant portion of the Monsignor's article is quoted in the Designation Report at 13.
- 6 The Designation Report noted other events and eminent persons associated with the academy which have shaped the character of the Miami community – but all were associated with either the academy (a structure not at issue before us) or St. Jude's as a church, not as an architectural or historical structure. See Designation Report at 12-14.
- 7 The ordinance sets forth another exception which allows for a religious property to be designated as historic, but that exception is inapplicable here.
- 8 The criteria set forth in the Ordinance is in all material respects identical to the criteria used by the federal government to include sites on the National Register of Historic Places. See 36 C.F.R. § 60.4. See also *Metro Dade County v. P.J. Birds, Inc.*, 654 So. 2d 170, 176 (Fla. 3d DCA 1995) (applying standards developed by National Park Service to interpretation of meaning of Dade County Historic Preservation Ordinance which was patterned after 36 C.F.R. § 60.4).
- 9 The City should make its findings detailed and specific. Recitations of criteria, with conclusory statements that St. Jude meets the criteria for designation, are unhelpful on certiorari review of quasi-judicial actions. It would not be proper for this Court to delve into the transcript of the testimony “in order to resolve opposing contentions as to what it shows or to spell out and state such conclusions of fact as it may permit.” Moreover, it would be an undue burden upon this Court to do so because Order No. 5434 lacks the basic or essential findings, as opposed to recitations, to support it. *Ryder Truck Lines, Inc. v. King*, 155 So. 2d 540, 541 (Fla. 1963).
- 10 By comparison, the transcript of the lengthy public hearing held by the City is replete with references to the religious significance of St. Jude. Many speakers supported the church's historic designation based on their vivid and fond recollections of “weddings and baptisms, and memorials, and healing masses, and Sunday Resurrections.” See, e.g., Transcript of Public Hearing at 30; 39; 132-33; 179-81. It is revealing, in light of the fact that the City was supposed to be determining whether St. Jude's primary significance today is religious or historic, that so many speakers referred to religious ceremonies.
- 11 The evidence in the record actually (and strongly) suggests that it was the Academy, not its chapel, which played a role in these events. See Testimony of Ellen Uguccioni, Chair of the Florida Historical Commission's National Register Review Board, Transcript of Public Hearing at 109 (“everything that has been said about this property that I've heard tonight has been the association with the School of the Assumption” which has been demolished).
- 12 To be sure, historic designation can also benefit a church. [A]lthough landmark status is restrictive in a certain sense, it is also a privileged status that may enhance a church's ability to carry out its mission and protect itself from encroaching development. Many churches, in fact, do not oppose designation, and even seek out landmark status for its positive effect on the church's ministry. *First United Methodist Church of Seattle v. Hearing Exam'r for Seattle Landmarks Pres. Bd.*, 916 P.2d 374, 381 (Wash. 1996) (quoting R. Bonds, *First Covenant Church v. City of Seattle: The Washington Supreme Court Fortifies the Free Exercise Rights of Religious Landmarks Against Historic Preservation Restrictions*, 27 GA. L. REV. 589, 615 (1993)).