

**PARISHIONERS AND PARISH OF ST. ANSELM  
C/O JOHN J. RYAN, JR  
155 FORD ROAD  
SUDBURY, MASSACHUSETTS 01776**

October 6, 2004

His Eminence, Dario Cardinal Castrillon-Hoyos  
Prefect of the Congregation for the Clergy  
00120 Vatican City State  
Europe

Re: Hierarchical Recourse Against Decree Of Suppression and Confiscation

Your Eminence:

We are members of the Catholic Faithful and members of the pastoral council for the parish of St. Anselm, Sudbury, Archdiocese of Boston, Massachusetts, U.S.A., who file this appeal on behalf of our parish as well as on our own behalf as individual aggrieved parish faithful. By Decree executed on August 23, 2004 and effective September 15, 2004, Archbishop Sean O'Malley ordered that St. Anselm Parish be suppressed and that the goods and obligations of St. Anselm Parish become the goods and obligations of the Archdiocese of Boston. St. Anselm Parish petitioned Archbishop O'Malley to revoke the Decree of Suppression. By letter dated September 17, 2004 and received September 22, 2004, Archbishop O'Malley refused to revoke his Decree.

On September 11, 2004 His Holiness Pope John Paul II spoke to bishops from Pennsylvania and New Jersey, U.S.A., during their "ad limina" visits while the bishops met with the Pope at his summer residence in Castel Gandolfo, Italy. In that talk, Pope John Paul II told the U.S. bishops that they should be open to a more collaborative style of governance that shares responsibility with lay Catholics. Pope John Paul II acknowledged that the bishops had expressed concern about "the crisis of confidence in the Church's leadership"; the "call for accountability in the Church's governance"; and "the relations between bishops, clergy and the lay faithful." Pope John Paul II said that the bishops should be willing to critique "certain styles of governance which, even in the name of a legitimate concern for 'good administration' and responsible oversight, can run the risk of distancing the pastor from members of his flock." Pope John Paul II said that the bishops must develop "a pastoral style which is ever more open to collaboration with all" and should make "a commitment to creating better structures of participation, consultation and shared responsibility." The Pope pointed out that such a commitment should not be understood as a concession to democracy but as a necessary way of strengthening a bishop's effectiveness. Pope John Paul II told the bishops that as successors of the Apostles they must exercise a form of service modeled on the self-sacrificing love of Christ, who "after stooping to wash the feet of his disciples and commanded them to do as He had done."

The reconfiguration process undertaken by the Archdiocese of Boston has failed to live up to the instructions of Pope John Paul II. Archbishop O'Malley and the bishops of the Archdiocese have failed to listen to and collaborate with their flock; have made decisions dramatically affecting their flock with no consultation with the flock; and have made decisions based on misinformation resulting from lack of structures of participation, consultation and shared responsibility with the lay faithful. As a result of the failed process of reconfiguration, the crisis of confidence in the Church's leadership, expressly acknowledged by Pope John Paul II, has only deepened.

This failure of the reconfiguration process is no more evident than in the case of St. Anselm Parish, a parish which had previously reconfigured to address all of the needs of the Archdiocese and a parish which had tangibly reached out on its own to fulfill the Apostolic mission of the Church in general and the Apostolic mission of the Archdiocese of Boston in particular.

We, therefore, hereby exercise our right to Hierarchic Recourse as provided in the Code of Canon Law, canons 1732-1739, and request that the Congregation for Clergy declare Archbishop O'Malley's Decree to be null and void and of no juridical effect or rescind or revoke the Decree of Suppression.

### **FACTUAL HISTORY**

St. Anselm Parish was established in 1963 from the southern part of the Town of Sudbury, Massachusetts, U.S.A., and the northeastern part of the Town of Framingham. The parish is comprised of approximately one half Framingham residents and one half Sudbury residents. In 1998 and the beginning of 1999 St. Anselm Parish prepared its Visitation Report (**Exhibit 1**) in anticipation of the visit of the regional Bishop. At that time St. Anselm Parish concluded that it should anticipate that after its current full-time pastor left, it would no longer have a full-time resident pastor. St. Anselm Parish prepared a parish structure to accommodate such a situation. Therefore, in its Visitation Report St. Anselm Parish set as its first goal and objective to prepare for the day in which St. Anselm would no longer have a full-time resident pastor. St. Anselm set forth five goals to achieve that objective. Those goals included continuing to work with other members of the Metro West Cluster to understand their needs and resources and to share such needs and resources; to determine which tasks currently being performed by the pastor could be performed by lay members of the parish; to develop a lay infra-structure to address the pastoral needs of the community; and to study other parishes which did not have a full-time resident pastor in order to better understand the structure of such parishes. The Visitation Report expressly noted that St. Anselm Parish was part of the Metro West Cluster (pp. 2, 3, 7). The Visitation Report further noted that it had established a task force to consider ways in which St. Anselm might collaborate more closely with Our Lady of Fatima Parish in Sudbury but the task force had concluded that the orientation of St. Anselm was with the neighboring town of Framingham parishes, to the south, and the orientation of Our Lady of Fatima was with the Maynard and Concord parishes to the north.

On March 11, 1999, Bernard Cardinal Law forwarded a letter to the Reverend James Bertelli, the pastor of St. Anselm Parish, reporting on his review of the Visitation Report and the visitation made to St. Anselm Parish by Bishop Emilio Allué in February 1999 (**Exhibit 2**). Cardinal Law reported that the new construction project in St. Anselm Church which involved separating part of the sanctuary where the tabernacle was located for daily Mass was a worthy project. Cardinal Law further noted that a feeling of parish family was evident at St. Anselm and that it was important that St. Anselm improve the spirit of Catholicity in the face of “rumors” of pessimism. Cardinal Law further noted the parish goal of “continued support and development to the Metro West Cluster.” At no time did Cardinal Law or Bishop Allué suggest that St. Anselm would be considered for closure or merger. In fact, to the contrary, Cardinal Law expressly adopted the recommendations contained in the St. Anselm Visitation Report and expressly sanctioned St. Anselm Parish continuing as a parish with a part-time, non-resident pastor.

In the spring of 2000 Fr. James Bertelli retired as pastor of St. Anselm. Consistent with the visitation report of February 1999 and Cardinal Law’s letter of March 11, 1999, arrangements were made for Fr. John Fitzpatrick to become the part-time pastor for St. Anselm Parish. Fr. Fitzpatrick operated the Deaf Community Center in the Town of Framingham under the auspices of Catholic Charities, an agency of the Archdiocese of Boston. Fr. Fitzpatrick agreed to serve as part-time pastor of St. Anselm Parish because the parish had successfully reconfigured itself and increased its lay involvement to handle the day-to-day functions of the parish such that Fr. Fitzpatrick could serve as part-time pastor and still fulfill all of his duties at the Deaf Community Center. St. Anselm Parish developed a model of parish organization and structure which allowed it to offer the same depth and breadth of programs and services which any larger parish could offer.

Two years ago St. Anselm Parish reconfigured again. This time the purpose was to fulfill an Apostolic mission of the Archdiocese. The Deaf Community Center run by Fr. John Fitzpatrick and located in Framingham, Massachusetts, was part of the deaf and hard of hearing ministry in the Archdiocese of Boston. The costs for the DCC facilities in Framingham were funded through Catholic Charities, an agency of the Archdiocese of Boston. However, because of financial strains, Catholic Charities announced two years ago that it could not longer fund the cost of the DCC facilities. At that time, St. Anselm Parish agreed to provide the necessary facilities for the Deaf Community Center. St. Anselm Parish reconfigured its church hall to allow a gathering place for the deaf consistent with their physical disability and needs and permitted the deaf to schedule their social events at St. Anselm Parish. In addition, St. Anselm Parish added Sunday Masses for the deaf in sign language and provided sign language interpreters for liturgical celebrations at such times as the Easter season and Christmas. A warm and loving relationship developed between St. Anselm hearing parishioners, many of whom learned sign language, and the deaf. Both groups learned from each other and grew in the Spirit of Christ with each other.

## THE FAILURE OF THE RECONFIGURATION PROCESS

In January 2004, Archbishop O'Malley wrote to the parishes of the Archdiocese of Boston stating that the Archdiocese needed to be reconfigured because of changing demographics; a decline in the number of priests; financial challenges affecting parishes; and the deteriorating condition of parish properties. Archbishop O'Malley acknowledges that he made the "important decision" that the entire Archdiocese of Boston could not continue as it was currently constituted (**Exhibit 8**). Although the decision by Archbishop O'Malley to suppress 82 parishes of the 357 parishes in the Archdiocese of Boston may have constituted, at one level, efficient "administration" of the Archdiocese, Archbishop O'Malley's failure to consult with the laity from those parishes which were to be suppressed did not merely run the risk of but did in fact distance Archbishop O'Malley from the members of his flock, "obscuring his image as their father and brother in Christ." (Remarks of Pope John II to bishops from Pennsylvania and New Jersey, September 11, 2004.) More than that, the decision to suppress 82 parishes was made with no collaboration with the laity from the parishes to be suppressed and with no attempt at participation, consultation and shared responsibility with the laity from the parishes to be suppressed. No attempt was made to collaborate with the laity which might be most affected on the propriety of this "important decision" or on creative alternatives to suppression in the case of some, if not all, parishes. Rather, Archbishop O'Malley "created a system using the existent clusters" (**Exhibit 8**) to have those clusters select from among their number a parish to close. However, the vast number of these clusters consisted of only two or three viable and financially solvent parishes. St. Anselm Parish was clustered with Our Lady of Fatima Parish of Sudbury. However, as set for the above, St. Anselm Parish had never before been clustered with Our Lady of Fatima Parish. In his letter of March 11, 1999, Cardinal Law had acknowledged that St. Anselm Parish was a member of the Metro West Cluster, which did not even include Our Lady of Fatima Parish. In that regard, Archbishop O'Malley's belief that he had created a system using existing clusters was mistaken. This is precisely the kind of mistake which can occur in the absence of collaboration, consultation and shared responsibility. It is exactly the kind of situation which can exacerbate an existing crisis of confidence in the Church's leadership.

More than that, the clustering of St. Anselm Parish with Our Lady of Fatima Parish resulted in two vibrant, faith-filled, financially solvent parishes with buildings in excellent condition being forced to choose between them which one should close. In the end, the parishes could not agree.

The report of St. Anselm Parish on cluster recommendation (**Exhibit 3**) and the report of Our Lady of Fatima Parish (**Exhibit 4**) both dated March 8, 2004 agree that both parishes are strong and thriving faith communities which operate with a financial surplus and are free of debt. Both reports agree that the buildings at St. Anselm are in excellent condition with no deferred maintenance items. The reports agree that there have been no significant changes in demographics for the area and that the population in the area has been growing steadily. However, the report from St. Anselm Parish recommended that neither parish close, especially considering the work done by St.

Anselm Parish in its ministry to the deaf. The report of Our Lady of Fatima Parish recommended that St. Anselm Parish close based simply on its size and location.

On May 24, 2004 Archbishop O'Malley wrote to Fr. Fitzpatrick advising Fr. Fitzpatrick that he had decided that St. Anselm Parish must close (**Exhibit 5**). However, In that letter, Archbishop O'Malley noted that “[h]aving considered the needs of the Catholic population of Sudbury, it is my belief that one parish is sufficient to serve the needs of the faithful.” The Archbishop went on to state that the spiritual needs of the parishioners at St. Anselm could be served by Our Lady of Fatima and other remaining parishes in the area. However, Archbishop O'Malley did not appear to acknowledge that St. Anselm Parish is comprised of one-half Sudbury residents and one-half Framingham residents. He makes specific reference to the needs of the Catholic population of Sudbury but fails to reference at all the needs of the Catholic population of Framingham also served by St. Anselm Parish. Archbishop O'Malley states that the Deaf Community presently at St. Anselm will be located to another parish. However, at no time did Archbishop O'Malley collaborate or consult with any of the deaf laity themselves. Archbishop O'Malley's letter of May 24, 2004 fails to acknowledge that the deaf, who are already disadvantaged, and in a very real way detached from the world which surrounds them, would now be told for the second time in two years that they have lost their home. A move beyond the Framingham/Sudbury area, a move to any area which may not be as physically or spiritually uplifting, frightens the deaf, especially the elderly, who already carry the burden of physical separation from the world around them. The failure of Archbishop O'Malley to acknowledge this reality in his letter of May 24, 2004 is a further example of efficient administration which distances the pastor from the members of his flock. It is a further example of a pastoral style which is not open to collaboration with all, including the deaf. It is a further example of a failure to create structures of participation, consultation and shared responsibility, which structures would help eliminate mistakes based on lack of information or misinformation. Certainly Christ, who healed the sick, gave sight to the blind and made the deaf hear, would want the successors of His Apostles to be of service to the deaf as well as all of His faithful.

On August 23, 2004 Archbishop O'Malley issued his Decree suppressing St. Anselm Parish. The Decree was delivered to St. Anselm Parish on August 25, 2004 with a cover letter from Bishop Richard Lennon dated August 24, 2004 (**Exhibit 6**). On September 3, 2004 St. Anselm Parish submitted its Petition To Revoke The Decree Of Suppression against St. Anselm Parish, Sudbury, to Archbishop O'Malley (**Exhibit 7**). By letter dated September 17, 2004 (**Exhibit 8**) and delivered to and received by the St. Anselm Parish Pastoral Council on September 22, 2004 (**Exhibit 9**), Archbishop O'Malley denied the Petition To Revoke The Decree Of Suppression. However, Archbishop O'Malley's letter of September 17, 2004 appears to reflect that he did not have complete and accurate information regarding St. Anselm Parish and that his decision denying the appeal may have been based, in part, on this incomplete and/or inaccurate information. This is exactly the kind of result that occurs in the absence of collaboration, consultation and shared responsibility for an “important decision.” This is exactly the kind of exacerbation of the crisis of confidence in the Church's leadership that Pope John Paul II was attempting to avoid. More specifically, Archbishop O'Malley's

letter makes reference to a system for the reconfiguration process using existing parish clusters. However, never before had St. Anselm Parish been in a cluster with only Our Lady of Fatima. In fact, at our very first meeting of the parishes from the Marlboro Vicariate, Bishop Edyvean noted that there was no cluster listed for St. Anselm. At various other times, St. Anselm was told that it was in a cluster with Marlboro parishes (a town to the west), a cluster with Framingham parishes (the town to the south) and a cluster with St. Anne's of Wayland (a town to the east) and our Lady of Fatima. At no time was St. Anselm ever told that it was in a cluster with only Our Lady of Fatima. In fact, at no time did St. Anselm ever meet in any cluster which included Our Lady of Fatima. As set forth above, during the visitation process of 1999, St. Anselm was told numerous times that it was clustered with the Metro West parishes, which included parishes from Framingham and Natick (another town to the south). The only official written documentation St. Anselm ever received from the Archdiocese which identifies the cluster to which it belongs was the March 11, 1999 letter from Cardinal Law which identifies St. Anselm Parish as being in the Metro West Cluster.

The September 17, 2004 letter from Archbishop O'Malley further states that St. Anselm Parish has been discussed as a parish that may close for twenty years and that a possible merger was discussed in the late 1990's. Once again, St. Anselm Parish is most surprised and confused by this statement. No one associated with the administration of St. Anselm Parish during that period of time has any knowledge of any word from the Archdiocese that St. Anselm Parish was on an Archdiocesan list for closure or merger. To the extent there may have been rumors of any such closure or merger, Cardinal Law in his letter of March 11, 1999 dismissed such "rumors." To the contrary, Cardinal Law expressly sanctioned the 1999 reconfiguration of St. Anselm Parish as a parish without a full-time resident priest.

Archbishop O'Malley's letter of September 17, 2004 states that there is a need to close parishes for the overall viability of the Archdiocese. However, the letter does not address how the closing of St. Anselm Parish improves the viability of the Archdiocese. Quite to the contrary, it would seem that closing a parish such as St. Anselm would diminish the viability of the Archdiocese. St. Anselm receives no money from the Archdiocese. Its buildings are in excellent condition. An examination of the demographics indicates that the parishioner base of St. Anselm is growing, especially with an increase in the number of younger families. Furthermore, St. Anselm has established a model of a parish which can function without a full-time priest. As such, St. Anselm Parish can be a model for other parishes in the Archdiocese, especially in a time of declining numbers of priests. Collaboration, consultation and shared responsibility with the laity would have shown that St. Anselm Parish could serve as a successful model for countless other parishes in the Archdiocese during this time of crisis for the Archdiocese. Creative collaboration with a parish such as St. Anselm could, perhaps in a small way, help reverse the crisis of confidence currently existing in the Church's leadership. More than this, St. Anselm Parish has helped further the Apostolic mission of the Archdiocese by taking in and providing for the Deaf Community Center when it lost its home in Framingham. Not only is St. Anselm a vibrant, faith-filled parish which can survive on its own, but it is a parish which can serve as a model for other

parishes in this time of crisis and a parish which can minister to the needs of others in the Archdiocese. As expressly stated by Pope John Paul II, better pastoral leadership can result from consultation with laity who may offer more creative solutions to the crisis facing the Archdiocese of Boston than simply closing vibrant, faith-filled, financially solvent parishes, parishes which can be a model to and provide assistance to other parishes and other ministries.

### **FAILURE TO CONSULT WITH THE PRESBYTERAL COUNCIL**

The Decree to suppress St. Anselm Parish was the product of a foregone conclusion by the Archbishop made without true or meaningful consultation with the Presbyteral Council. The Decree, therefore, is invalid under Canon Law.

Canon 515, § 2 requires the diocesan bishop to consult with the Presbyteral Council prior to suppression of a parish. ‘Consulting’ with the Presbyteral Council requires informed, knowledgeable consultation. Those whose consultation is sought, must give it sincerely. (Canon 127, §3) The Archbishop made no secret of his initiation of a “reconfiguration process,” or that the process would ultimately result in the suppression of numerous parishes in the Archdiocese (**Exhibit 8**). However, this solution to the problems of lower mass attendance, the declining number of priest, and other financial challenges affecting various parishes was not made in consultation with the Presbyteral Council. The Presbyteral Council was not even in existence until the reconfiguration process was already well under way and had gone through multiple levels of decision and review. The consultation is to be a genuine consultation, based on the requirement of Canon 369 that the presbyterate share responsibility with the bishop for the “portion of the people of God...entrusted to” him. Where the Council did not exist and, thus, the members were not aware of their upcoming responsibility to consult in the suppression of parishes, or have the authority as a council to make alternative recommendations early in the process, the quality of advice offered to the Archbishop was adversely affected, to our detriment and in derogation of Canon 515. J. Provost, “Some Canonical Considerations on Closing Parishes,” *The Jurist* 53 (1993) 362-370. “It would be a mistake for the planning process to complete a total package, and then inform the presbyteral council on the results. Even though in some sense this is indeed consultation (that is, the presbyteral council could recommend against the package, or recommend major modifications in it) the impression can be given that the council is being brought in too late for its advice to be significant. That impression would seem to be in violation of the council’s role in canon 515, § 2.” “Consultation is a way of acknowledging the presence of God’s Spirit in the members of the community. ... [it] implies...fully informing [the members of the group to be consulted] of the facts of the situation and its background; encouraging a full and free discussion, and honest exchange of views about the decision to be taken; each member expressing his or her own judgment sincerely and candidly...” James A. Coriden, “An Introduction to Canon Law”, (Paulist Press 1991).

By the time the Presbyteral Council addressed Reconfiguration, all the previous levels had rendered their recommendations and comments. They were presented with a

pre-ordained decision and a list to of parishes to suppress that had already been made for their deliberation. Their function was more as a rubber stamp to what had already been decided, which deprived our parish of the Due Process of law. In fact, the Presbyteral Council met for three days. This would amount to 24 hours to consider over 100 candidates for suppression. This amounts to less than 15 minutes per parish, certainly not enough to consider the particulars of each parish. The Presbyteral Council to effectively and, we believe, canonically give its consultation, should have been consulted from the beginning in dealing with the Archdiocese's problem. They should have *helped formulate* the criteria for closure, not follow the criteria set by the Archdiocese. We believe that, had the Presbyteral Council been in existence to give consultation and advice, including offering the wisdom of requiring objective criteria/guidelines for deliberations, then alternative solutions to the problems said to be driving the reconfiguration process, or the process itself, may well have been suggested and accepted, obviating the need for suppression of vibrant, successful and self-supporting parishes, such as St. Anselm.

### **SUPPRESSION OF A VIBRANT, VIABLE PARISH IS CONTRARY TO CANON LAW**

The suppression of St. Anselm is contrary to its fundamental right to existence. Canon 374, § 1 recognizes parishes as a necessary constituent part of a diocese. They are "obligatory, not optional" in the function of the church. ( 2000 CLSA "New Commentary on the Code of Canon Law", Canon 374, §1 Commentary, John A. Renken at p. 510.) Once it is created, a parish becomes a canonically-recognized juridic person with a right to exist. Canon 515, § 3. It is "perpetual by its nature" unless "legitimately suppressed by competent authority or has ceased to act for a hundred years." Canon 120, § 1. According to James A. Coriden,

"Parishes should not be suppressed or merged with others unless they are evidently not longer viable. The impossibility of their continued life must be clearly demonstrated. A shortage of priests for pastoral leadership is not an adequate reason to suppress or combine parishes. Canon law strongly recommends liturgies of the word and group prayer in the absence of sacred ministers (c. 1248.2), clearly implying that the life and worship of a community must continue even when priestly leadership is absent. "THE PARISH IN CATHOLIC TRADITION *History, Theology and Canon Law*" James A. Coriden at 73 (Paulist Press 1997)

Thriving parishes have a right to existence and thus cannot be suppressed.

As Archbishop O'Malley has recognized, "People have moved to the suburbs, they are having fewer children, there are fewer regular church-goers" (December 16, 2003-Archbishop O'Malley's Address to Priests of the Archdiocese, p 10) That is not the case at St. Anselm's. We are a vital, vibrant, financially-sound parish. The Church and Rectory are in excellent physical condition, and the grounds are well-maintained. We are spiritually sound and our outreach is attracting new and returning members for the local Catholic church. (Canons 210, 211, 212) We are an asset, not a liability to the

Archdiocese. We should be studied for our successful methods of reconfiguration and operating successfully with a part-time pastor. We should be studied for our successful methods of reaching out to the deaf and creating a parish family which is home to both the hearing and the deaf. Under any set of criteria, we are a success and should be studied, not be suppressed. “A just cause is needed for the modification of parishes; the exercise of pastoral leadership should not be arbitrary.” CLSA, “New Commentaries on the Code of Canon Law”, Beal, Coriden and Green, eds., John A. Renken, Commentary on Canon 515, § 2, p. 680 (Paulist Press 2000)

In addition to giving the diocesan bishop the power to suppress or alter parishes (after the required consultation with the presbyteral council addressed further below) (Canon 515, § 2), Canon law gives the him the pastoral duty to “show himself concerned for all the Christian faithful entrusted to his care, of whatever age, condition, or nationality” and he must “extend an apostolic spirit to those who are not able to make sufficient use of ordinary pastoral care because of the condition of their lives and to those who no longer practice their religion.” Canon 383, 1. The salvation of souls, which must always be the supreme law in the Church, is to be kept before one’s eyes. (Canon 1752). The ordinary’s concern must include the spiritual welfare of St. Anselm’s parishioners and their successful outreach to the community at large in building up the Body of Christ. (Canon 208)

Canon 515, § 1 declares that a parish is “a certain community of the Christian faithful stably constituted in a particular church....” As John A. Renken argues in his Commentary on Parishes and Pastors,

“it is essentially the parish which gives the Church concrete life, so that she may be open to all.” .... “It must be a home where the members of the Body of Christ gather together, open to meeting God the Father, full of love and Savior in his Son, incorporated into the Church by the Holy Spirit at the time of their Baptism, and ready to accept their brothers and sisters with fraternal love, whatever their condition or origins.”CLSA, “NEW COMMENTARIES ON THE CODE OF CANON LAW, p 673 (Paulist Press 2000)

Canon law recognizes the need and value of the faithful to come together in a regular association, with much of the characteristics of family, to share their faith and support each other. The parish helps us to grow in our faith by interacting with and relying on one another over the dailyness of our lives. Indeed, canon law recognizes the import of membership in a parish when it grants standing to parishioners to oppose the suppression of their parish. The *communio* of the parish, its successful outreach to the larger community, and its right to a stable relationship with, and spiritual assistance from, its pastor are accorded special importance in the canons. (Canon 210, Canon 212, §§ 2-3) These relationships are not something that statically exist, but must be built up over time and over a life-time. Destroying the fabric of a vibrant parish community violates the acquired right of the parish and parishioner and is therefore null and void.

The Archdiocese has admitted that it intends to seize and confiscate the parish property once the parish is suppressed, and use the funds to pay unrelated Archdiocesan debts in violation of canon law. Under trust law, even if there were full and fair disclosure, a trustee cannot take the asset from one Trust to pay for another or to pay for a secondary use. While Canon 123 permits the Archdiocese to seize the funds of a suppressed parish, it does not permit the Archdiocese to seize and confiscate funds and assets in violation of the intention of the founders and donors and acquired rights. Monies given for a specific purpose, to further the existence of St. Anselm parish and support the spiritual growth of the parishioners cannot be used for Archdiocesan debt, or the debt of other parishes, they may only be used for the specific, intended purpose. (Canon 1267, § 3) Throughout the canons, the will of the donors is to be respected. (Canon 1300, see also, e.g., 1267, §3, 1284, § 2, 3<sup>o</sup>) The Archdiocese may not take funds donated to St. Anselm parish for the benefit of the spiritual development of its parishioners and apply them to old debts of the Archdiocese. “As in canons 121 and 122, and frequently throughout the code, so also in canon 123 the Church’s commitment to the faithful fulfillment of the intentions of founders and donors finds expression. Acquired rights must also be respected in the allocation of goods and obligations upon the extinction of a public person.” CLSA, “NEW COMMENTARY ON THE CODE OF CANON LAW”, Beal, Coriden and Green, eds., p 172 (Paulist Press 2000)

Further, the Archdiocese may not suppress a parish, take the assets and use the proceeds to pay for obligations it has not listed or identified. It may not make payments for obligations it has explicitly said it would not pay with the funds. And it may not pay indirectly what it has explicitly said it would not pay. The Archdiocese, once it has “forgiven” a debt of a parish, cannot suppress another parish to pay off the “forgiven debt” (Jubilee Year, RCAB writes off \$28 Million in parish debts. (Letter to Pastors, July 2004) (None of that debt was debt of St. Anselm.) The Archdiocese cannot claim that it is not going to use funds of suppressed parishes to pay Survivor settlements (claims against the Archdiocese by former children allegedly abused by transferred Church) and pay *future* Survivor settlements or pay debts normally paid with other funds, so those funds can pay settlements. The reasons given in public for the suppression, seizure and sale of the parish and its goods must be true, otherwise the Archdiocese would be guilty of subreption. (Canon 63, § 1) The Archdiocese must be a good steward and deal honestly with its faithful.

Further, the shortage of priests does not require the suppression of parishes. Canon law provides for shortages of priests by several alternate arrangements, including parishes entrusted to several priests “In Solidum” (c. 517, § 1), neighboring parishes entrusted to the same pastor (c. 516, § 1), and by entrusting parishes to deacons and lay persons under the direction of a priest with the powers and faculty of a pastor (c. 517, § 2). lay administrators, etc., as well as utilization of liturgies of the word and prayer services in the absence of sacred ministers. (Canon 1248, § 2).

## **FAILURE OF THE PROCESS AS APPLIED TO SAINT ANSELM**

The Archdiocesan letter of January 10, 2004 directed the clusters to answer two questions: (1) If the Archbishop needs to close a parish in your cluster for the greater good of the Archdiocese, how would you recommend that your cluster of parishes be reconfigured and why? (2) If the Archbishop needs to close more than one parish in your cluster, how many parishes would you recommend for closure and how would you recommend that your cluster be reconfigured and why?

This mandate presented every cluster with a “Hobson’s choice” and only skewed the objectives to be achieved. This situation is even worse in a cluster of only two vibrant, financially solvent parishes. Rather than obtaining objective data from each parish, which data would then be compared with data from all parishes in the Archdiocese, the Archdiocese’s mandate required each parish to compete against other parishes within their cluster. The real trauma that was visited on the faithful in worrying about the survival of their beloved parishes was only compounded by the defects in the procedure used for selection of parishes to recommend for suppression.

The failure of the process from its conception is no more evident than in the cluster comprised of Saint Anselm and Our Lady of Fatima Parish in Sudbury. The separate cluster reports submitted from Saint Anselm and Our Lady of Fatima both agreed, without qualification, that both parishes are strong and thriving faith communities fulfilling the mission of the Church in their geographic territory. The reports agreed that both parishes celebrate beautiful faith-filled liturgies; have well run religious education programs; reach out and address the needs of the young and the elderly; assist in a variety of ways the poor and the disadvantaged; and are experiencing continuing growth. Both cluster reports agree that both parishes operate with a financial surplus and are free of debt. Both parishes have appropriate worship space. The cluster reports agree that the buildings at Saint Anselm are in excellent condition. There are no deferred maintenance items and a substantial renovation of the parish hall was completed at Saint Anselm in the fall of 2003. Both cluster reports agree that Saint Anselm is also the home to the Deaf Community Center (DCC) which offers over 300 deaf people of all faiths the opportunity to meet their religious, social, educational, and communication needs.

There is ample evidence that the decision to suppress Saint Anselm was part of a preordained selection process in which the Presbyteral Council played no part. Saint Anselm is a vibrant, financially secure parish with a resident pastor and active laity. Yet it was still assigned, for the first time ever, to a cluster of two where the other parish was headed by the regional vicar. It was not on the initial list of parishes the local clusters recommended for closure. Nevertheless, the Archbishop added Saint Anselm to the list of parishes slated for closure when he announced the listing on May 25, 2004. There is no evidence that the decision to add Saint Anselm to the list of parishes to be suppressed was ever the subject of true consultation with the Council, but rather was selected by the Archbishop without consultation with the Council.

“[T]he Christian faithful ... have the right to be judged according to the prescripts of the law applied with equity.” Canon 221, § 2. “Canonical equity aims at ensuring that rights are protected or injustices corrected in situations where a strict application of the law might harm these rights.... Equity ensures that the Church’s mission of salvation remains paramount (see c. 1752), reflecting the Church as *communio*....[C]anonical equity “safeguards the natural justice recognized through human reason. It abets the effort of ecclesiastical law always to be open to the possibility of supernatural evangelical love, compassion and mercy. It manifests the hope of the Church for the future by helping to ground the juridical structure of the present in the Tradition.” “NEW COMMENTARY ON THE CODE OF CANON LAW” (CLSA, Beal, Coriden and Green, eds. 2000) p. 281 at fn 154-55.

## CONCLUSION

In view of all the foregoing, we respectfully request that the Congregation issue a decree declaring the Decree imposed by Archbishop O’Malley to be null and void and of no juridical effect or otherwise reverse, rescind or revoke the Decree for lack of adherence to the norms of the Code of Canon Law and in that it lacked basis in law and fact.

Sincerely in Christ,

Cynthia Deysher  
Jen Balsar  
Jeanine Driscoll  
Elizabeth Foley  
Jamie Hanson  
Lisa Hanson  
Richard Hornor  
Fiona Keating  
Ronald Nix  
Deborah Ramrath  
John Ryan  
Gail Trainor  
Rosemary Veri

cc: Archbishop Seán P. O’Malley, OFM Cap.