

TUESDAY, NOVEMBER 8, 2005
11:00 A.M.

NO. 3

#23591

SUZANNE KORZAN, JOAN SCHULZ,
BETTY HEIDINGER, LUCILLE GEISLER
and GLADYS SEBASTIAN,
Plaintiffs/Appellants,

vs.

CITY OF MITCHELL,
Defendant,

and

ROMAN CATHOLIC CHURCH
OF HOLY FAMILY OF MITCHELL,
Intervenor/Appellee.

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(FOR APPELLANTS)

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STATEMENT OF THE ISSUES

The issues presented by Appellant are as follows:

1. Whether the City complied with its statutory duty pursuant to SDCL 1-19A-11.1, to consider all relevant factors in determining a) whether a feasible and prudent alternative to demolition exists, and b) whether Holy Family's plan to demolish the entire Notre Dame Academy included all possible planning to minimize harm to Notre Dame Academy?

The trial court concluded that the City's action was not clearly erroneous, arbitrary and capricious nor characterized by an abuse of discretion.

2. Was the City's decision clearly erroneous, arbitrary and capricious, characterized by an abuse of discretion, or by a clearly unwarranted exercise of discretion?

The trial court concluded that the City's action was not clearly erroneous, arbitrary and capricious nor characterized by an abuse of discretion.

3. Whether the trial court erred when it concluded that the Religious Land Use and Institutionalized Persons Act Prohibits the application of SDCL 1-19A-11.1 to the facts of this case, and when it concluded that denying the application for a demolition permit would substantially burden Holy Family Parish's religious exercise.

The Trial Court held in the affirmative.