

**Parishioners and Parish of St. Mary's Church
6437 East Seneca Turnpike
Jamesville, NY 13078**

(This address is subject to change. Please see page nine of this document.)

May 26, 2007

His Eminence Claudio Hummes, OFM, Cardinal, Prefect
Congregation for the Clergy
Palazzo Dello Congregazioni
Piazza Pio XII 3
00193 Rome (Roma), Italy

Re: Hierarchical Recourse In Response to Decree Of Suppression and Confiscation
(Follow up to appeal letter dated 5-1-07 for Administrative Recourse Process)

Dear Cardinal Hummes:

Members of the parish, pastoral and financial councils of the parish of St. Mary's Church, Jamesville, NY 13078, file this written canonical appeal on behalf of our parish, as well as on our own behalf, as individual aggrieved parish faithful in response to Bishop Moynihan's 4-27-07 letter announcing his intention to close our parish. **(Exhibit1)**.

We believe that the procedural actions used by the Bishop fail to meet the standards under Canon Law. In addition, the decisions of the Bishop completely ignore the viability of St. Mary's. The proven vitality of the spiritual patrimony and the physical patrimony of St. Mary's has been completely disregarded by the decisions of the Bishop. As a result, the parishioners of St. Mary's are denied the center of their faith life and their place of worship in Jamesville.

At the time the May 25, 2006 letter was sent **(Exhibit, 2)**, the Vicar for Parishes failed to clearly explain the meaning of "mission". We have just discovered that "mission" is not a canonical term.

We are dismayed that we never knew our true status since May 25, 2006 **(Exhibit 3)**. We feel betrayed by the Bishop who was not forthcoming in the spirit of canon law. In addition to the facts as stated below, it is now very clear to us that the parish of St. Mary's was always going to be, as the Bishop describes in the 4-30-07 article in the Post-Standard, "closed" **(Exhibit 4)**.

We now realize for the first time, one year after the fact, that our parish was suppressed as of the letter May 25, 2006 sent by Rev. James P. Lang, Vicar for Parishes **(Exhibit 2)**.

"Before issuing a singular decree an authority is to seek out the necessary information and proof and insofar as possible to hear those whose rights can be injured", (c.50).

During the time of gathering information to be used to make decisions about St. Mary's, Msgr. Yeazel failed to give the necessary information about St. Mary's to the Diocesan College of Consultors, **(Exhibit 5)**. The bishop then ignored the necessary information about St. Mary's, Jamesville, as detailed in November 19, 2006 letter from parishioners **(Exhibit 6)**.

The Pastoral Council President and the Mission Possible Co- President, drafted a letter after February 12, 2007, to both Msgr. Yeazel and Fr. Manno, and stated:

“When we became a mission of Holy Cross, it was our belief that the make up of the mission would evolve. We further understood that as part of a PCA, [Pastoral Care Area] a plan would be proposed to the Bishop and following his decision, we would further develop our format as a mission church. These decisions regarding the PCA, we were told, had not been made in September, 2006. More information needed to be gathered and pieced together to come up with a cohesive, workable, good, plan for all parishes involved to present to the Bishop.” (**Exhibit 7**).

This clearly shows that we were led to believe that we would continue to have our own identity. Since we now know that “mission” is not a canonical term, we must assume the intent was to change the canonical status of St. Mary’s to a quasi parish (c. 1516.1) that has the same rights and obligations as a parish. We have acted as such these past months, even though we had no idea that our canonical status had changed. Nor were we aware that the Bishop had only one option in mind for us from the beginning of the process of restructuring, being what he calls, “closure” (www.syrдио.org).

We are now exercising our rights under canon law, as parishioners of St. Mary’s, to appeal against the suppression of our parish, since the parish of St. Mary’s Jamesville was never lawfully suppressed in the letter of May 25, 2006. At the time that letter was issued:

1. The Vicar for Parishes failed to inform us of our rights under canon law.
2. No one made clear to us, our rights to appeal the suppression of our parish.
3. The letter dated May 25, 2006 does not meet the criteria of c. 51, that states,
“ A decree is to be issued in writing with the reasons at least, summarily expressed if it is a decision.”
The only reason given in the letter May 25, 2006, is the right of the bishop to do so.

4. The bishop never sought or received consent from the interested parties regarding the alienation of the assets of the faith community of St. Mary's, as required by (c.1291.1). There was no discussion of the alienation of the parish assets at the parish council meetings or the finance council meetings. Therefore the consent of certain interested parties namely the undersigned parishioners which includes, members of the Parish Council and Finance Committee was never obtained, as required by (c.1292).

Other procedural errors are also contained in the May 25, 2006 letter.

First of all, the writer of the May 25, 2006 letter was unable to invoke the correct canon. Canon 512.5 is devoid of all meaning because there is no such canon in the Code of Canon Law, 1983. It is disappointing to note that this type of error is present in a decision of such fundamental importance to the faith community of St. Mary's.

In addition, apart from this mis-citation, (erroneous citation of the relevant canon), this document fails to express in any manner the reasons for this incomprehensible decision.

Finally, the parishioners of St. Mary's, whose rights have been injured, have never been given a suppression decree, as required in the code (c.50). Under our rights as parishioners, (c.57) we lawfully request the decree. As the Bishop knows, this is to be available to us in three months time.

We, the parishioners of St. Mary's have been denied our procedural rights under canon law as named above.

Since we are novices to this, and we are so unclear about the procedures and time frame necessary for recourse, and because we do not wish to lose our rights in this matter, we seek recourse not only to you Cardinal Hummes, we are also sending this to Bishop Moynihan.

Canon 212 clearly states that the Christian faithful are at liberty to make known their needs especially their spiritual needs and their wishes to the Pastor of the Church.

In addition to the procedural errors noted above, the spiritual and physical patrimony of the St. Mary's parishioners have been disregarded by the Bishop in his restructuring plan (www.syrдио.org).

Bishop Moynihan has required that there be "one priest, one church building", (**Exhibit 8 & Exhibit 9**). As a result, the PCA recommendation number four, which calls for two sites: one at St. Mary's and the other at Holy Cross, was never adequately developed or responsibly presented to the Diocesan College of Consultors for their consideration and recommendation to the Bishop.

The Syracuse Diocese has 168 parishes and 15 missions (183 total). Diocesan records show that as of July 1, 2006 there were 158 priest (including projected new ordinations). The closing of 40 churches in the next three years, (as well as the fact that 100 priests will be at or beyond retirement

age seven years later), will not help to meet, a few years from now, the litmus test set up by the Bishop, “one priest, one church building”.

Using only the number of ordained clergy and the number of parishes as the criteria for restructuring the diocesan parishes, does not take into consideration the vitality of parishes or the spiritual needs of the 284,000 Roman Catholics who will continue to live in the seven counties in the 5,000-square-mile region of the Syracuse Diocese and who have the right to hear the Word and receive the sacraments. (c. 212.2 & .3).

“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).

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 (c.1248).

Statistics from a national study of parish reorganization clearly shows that more than 40% of merged parishes reported a decrease in size (number of households). Only one in seven parishes that were linked, (shared a pastor or assigned a parish life coordinator) reported a decrease in size. The statistics clearly show that parishes assigned to a parish life coordinator were most likely to have experienced an increase in number of households. (**Exhibits 10 & 11**).

St. Mary’s is a vital, vibrant, financially-sound parish with a growing number of community members, (**Exhibit 12**) despite the fact that St. Mary’s has had four different pastors/administrators in the past two years with numerous changes in mass schedules. As we have stated in our letter to Fr. Lang dated 11-19-06, St. Mary’s parish does not meet the stated criteria for closing (**Exhibit 6**).

St. Mary’s has remained a strong and committed church community due primarily to the involvement of its parishioners (**Exhibit 13**). Fr. Manno, St. Mary’s Parochial Vicar, has recently commended us on these efforts by stating that all he had to do was walk in the door and ‘say mass’ for our recent Easter Vigil.

Fr. Finnegan stated that, “I don’t know of any parish which has the level of commitment and volunteerism that is much the hallmark of this fine parish and

community of good and faith-filled people” (**Exhibit 14**).

St. Mary's has also demonstrated numerous outreach programs (**Exhibit 15 & 16**) and a strong religious education program with a rising Sacramental index, including first communion and confirmation numbers. The Church and Rectory are in good physical condition, and the grounds are well-maintained.

The Church is located in a suburb where the Catholic population continues to grow and where young people remain in the community as adults in high numbers. Also, new housing initiatives and the expansion of several major nearby developments, will increase the population in the vicinity of the church significantly (**Exhibit 17**). A conservative total of 592 lots/units have already been approved and the majority has already been sold/built. At least one additional Kindergarten class has already been approved at the Jamesville Elementary and as Kindergarten enrollment continues to grow, two additional classes may be necessary by the start of the fall 2007 school year (**Exhibit 18**).

A parish is "a certain community of the Christian faithful stably constituted in a particular church...." (c.515, .1). 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 daily-ness 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. (c. 210, c. 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.

Msgr. Yeazel recently praised our "mission possible" efforts and all of the good work that is being done at St. Mary's Church at his 4-30-07 listening session. We should be studied for our successful methods in "Being Church" to a large and varied population .

Not only our spiritual patrimony but also our assets (partrimony) are at risk by the decision of the Bishop.

The September 16/17, 2006 church bulletin insert from Fr. Yeazel said, “All of St. Mary’s assets will be put in an endowment for outreach to the Jamesville Community with service programs, i.e. Religious Ed., Youth Ministry, etc” (**Exhibit 19**). We respectfully ask why this has not been done and when will this take place?

Once St. Mary’s is suppressed, the parish assets would be available to pay the debts of Holy Cross parish as noted below. Bishop Moynihan was quoted in the 4-30-07 Post Standard when he stated that, “St. Mary’s will close July 1st [2007]. Its territory, assets, debts, and records will go to Holy Cross Church in DeWitt” (**Exhibit 4**).

St. Mary’s Church has no debts. However, at the 5-16-07 St. Mary’s/Holy Cross Pastoral Council Meeting, the Finance Chair of Holy Cross, stated that there is currently \$1,050,000 in loan debt related to the recent building of the new Holy Cross Church. Another \$400,000 - \$500,000 in debt is currently in litigation related to a new Holy Cross stain glass window. Holy Cross is currently accruing \$6,500 in monthly interest fees as a result of this debt. 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.

This is a misuse of parish funds and it is certainly not appropriate for the Bishop to initiate the suppression of vibrant parishes so that their assets can be used to pay off the debts of another parish.

Canon 123 does not permit the funds and assets of a juridic person to be used 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. Mary's parish and support the spiritual growth of the parishioners cannot be used for diocesan debt, or the debt of other parishes, they may only be used for the specific, intended purpose. (c. 1267, . 3) Throughout the canons, the will of the donors is to be respected. (c.1300, c. 1267.3, c.1284.2, 3°).

The Diocese may not take funds donated to St. Mary's parish for the benefit of the spiritual development of its parishioners and apply them to old debts of another church. 'As in canons 121, 122, and 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).

St. Mary's church was established in 1899. In a 1941 issue of the Catholic Sun, it states that a church in the year 1681 was erected by a Jesuit, Father Lamberville, on the James Keogh farm. Twice more, the church burned and was rebuilt.

In the 1909 History of the Diocese of Syracuse it states that... "In 1889 plans were begun to erect the first Catholic Church in Jamesville. James Ryan served as chairman of the building committee. Daniel Quinlan donated the lot west of his house and the Gorman Brothers construction firm, (James, Timothy and John) were hired for the project. According to the family of Daniel Quinlan, (including Keoghs, Nelsons, Swans, & Prozaks, still living in Jamesville), the land should revert back to the family in the event that the property is no longer used as Catholic Church. The church was completed in 1899 and the first Mass celebrated in April of that year. The total cost of the building was \$3,499. Bishop P.A. Ludden dedicated the church in September of 1899...

Funds for the construction were raised with the help of a "Fair and Festival" held May 25, 1898 at Kortright's Hall and \$564.13 was raised. The tickets printed indicated that "solicitors must sell tickets only to people of respectability"...records show a long list of Jamesville Catholics and non-Catholics as well as donors from Catholic parishes in Syracuse, LaFayette, Fayetteville and Pompey. Money to pay for the church was also raised by ice cream socials held in parishioner homes and chicken and biscuit dinners at the church. The many farmers of the parish donated the chickens, flour and potatoes to make these a success.

From 1919 to 1962 Jamesville supplied mission priests to LaFayette (Water Wheels & Stone – Heritage of the Little Village by the Creek, 1978). It was with this intention, to again be in a "mission" relationship, that the parish leaders agreed to enter into our recent

mission status (dated 10-1-06) with Holy Cross, DeWitt. Especially since Fr. Finnegan said in September, 2005, "...St. Mary's is in very good hands, has a bright future and will be a place for worship for years to come" (**Exhibit 14 & 20**).

Through the years, the parishioners have made a number of specific gifts for the spiritual benefit of St. Mary's parishioners, including a baptismal font donated by John Albanese and Ray Schwinn and an organ in the amount of \$14,000 purchased in February, 1990 and many other valuable items including, but not limited to, vestments and crystal and gold trim pieces. Between 1931– 1933, thirty six stained-glass windows were installed with monies donated by parish families featuring many modern saints. These windows have served as historical records of the many families of the church.

The reasons given in public for the suppression, seizure and sale of the parish and its goods must be true, otherwise the Diocese would be guilty of subreption. (c. 63.1) The Diocese must be a good steward and deal honestly with its faithful.

We intend to take action to prevent any act that would result in the alienation of the church building or church goods and property.

Certain acts relating to temporal goods are more significant than others and require a more elaborate system of authorization. The Code of Canon Law clearly distinguishes acts of administration (whether ordinary or extraordinary) from acts of alienation of property whereby a juridic person divests itself of all or part of its stable patrimony.

Canon 1277 reads as follows:

...It is for the conference of bishops to define which acts are to be considered of extraordinary administration.

To place acts of extraordinary administration, as defined in the statutes of public juridic person other than the diocese, administrators require, for validity, the consent of the Ordinary (c. 1281).

Canons 1291 and 1292, .1. .2, and .3, deal with the validity of acts of alienation. In cases involving alienation of stable patrimony, permission from the Holy See might be required, depending on the value of the property to be alienated.

Canon 1291 reads as follows:

The permission of the authority competent according to the norm of law is required for the valid alienation of goods which constitute by legitimate designation the stable patrimony of a public juridic person and whose value exceeds the sum defined by law.

"Alienation is a transfer of ownership of property by sale, gift or exchange." It is not a mortgage, nor easement, nor lien, nor an option to purchase, nor borrowing or loaning with or without collateral, nor assuming a mortgage on a piece of property, nor the leasing of

property. Such transactions, however, may in certain circumstances, be canon 1295 transactions, discussed below.

Canon 1292, .1, reads as follows:

Without prejudice to the prescript of (c.638,.3), when the value of the goods whose alienation is proposed falls within the minimum and maximum amounts to be defined by the conference of bishops for its own region, the competent authority is determined by the statues of juridic persons if they are not subject to the diocesan bishop; otherwise, the competent authority is the diocesan bishop with the consent of the finance council, the college of consultors and those concerned. The diocesan bishop himself also needs their consent to alienate the goods of the diocese.

Effective February 9, 2006, the United States Conference of Catholic Bishops decreed that:

1. the maximum limit for alienation and any transaction which, according to the norm of law, can worsen the patrimonial condition is \$10, 681,000 for Dioceses with Catholic populations of half a million persons or more. For other Diceses the maximum limit is \$5,341,000 (c. 1295).
2. the minimum limit for alienation and any transaction which according to the norm of law, can worsen the patrimonial condition is \$1,068,000 for Dioceses with Catholic populations of half a million person or more. **For other Diocese the minimum limit is \$534,100.**
3. for the alienation of property of other public juridic person subject to the Diocesan Bishop, the maximum limit is \$5,341,000 and the minimum limit is \$26,705 or 5% of the prior year's ordinary annual income, whichever is higher.
4. both the maximum and minimum amounts within the region are linked to the consumer price index as determined annually the United States Bureau of Labor Statistics, and reported by the United States Conference of Catholic Bishops to the appropriate offices of the Holy See and to the Conference members.
5. the aforementioned dollar limits are in effect until March 31, 2008, at which time they are subject to change.

Three parcels of property including the church, rectory and parking lot have a current fair market appraised value of \$668,000. The ball field was recently sold for \$60,000 for a total of \$728,000 in stable patrimony (**Exhibit 21**). This is another reason for the dual appeal as cited by canon law above (c.192.1 and .2) (**Exhibit 22**).

While our canonical status is in question and until a definitive decision to this appeal is made, we respectfully ask that the following be assured to the parishioners of St. Mary's:

1) We respectfully request that mass be held on Saturday evening and Sunday morning at the church building of St. Mary's until a definitive decision is made to this appeal. Mass is scheduled to cease for St. Mary's, as of July 1, 2007.

2) We ask that no alienation of St. Mary's patrimony take place until a definitive decision is made to this appeal. At a 5-16-07 meeting, Msgr. Yeazel offered to sell our church building for \$1.00 to the town or any private buyer. We see this as a serious disregard for the physical patrimony of St. Mary's, or at least a lack of respect for the situation within which St. Mary's has been placed by the Bishop (**Exhibit 16**).

3) Since the bishop is planning to close St. Mary's so quickly, (July 1, 2007), and since we have not received all correspondences related to the issues stated in this appeal, we request that all replies to the appeal be sent to the following address:

4142 W. Shore Manor
Jamesville, NY 13078
c/o Kyle & Colleen LaTray

These requests show the urgency of this appeal as a result of the rapid movement by the Bishop to suppress St. Mary's.

In conclusion, we find that our rights, as found in Canon Law, have not been protected by the Bishop in his move to restructure the Syracuse Diocese.

1. No suppression decree has been made available to the parishioners. It is our right to have one.
2. Documentation is very sparse. We request that all documentation be provided.
3. It would appear that the diocese of Syracuse is relying on the letter of May 25, 2006, as its authority under canon law (c.515.2). However, this is contrary to the basics of canon law.

Taking the letter of May 25, 2006 at face value, it would appear the diocese is relying on this as the instrument of suppression. If one were to upset this argument (which we do not), this letter is woefully deficient under canon law and fails its intended purpose for the reason outlined above. The suppression is null & void, using canons 1292.1, 50 & 51. In addition, the grave disregard of the spiritual and physical patrimony of a vital parish does not meet the mind of the Church as found in Canon Law, 1983.

In view of all of the foregoing, we respectfully request that the Congregation issue a decree declaring the Decree imposed by Bishop Moynihan dated 4-27-07 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 in fact.

Sincerely in Christ,

Parish Counsel Members

Finance Committee Members

Members of the Parish

Cc: Bishop Moynihan
Archbishop Sambini

Parishioners' Signatures (continued):

Cc: Bishop Moynihan
Archbishop Sambani

May 29, 2007

His Eminence Claudio Hummes, OFM, Cardinal, Prefect
Congregation for the Clergy
Palazzo Dello Congregazioni
Piazza Pio XII 3
00193 Rome (Roma), Italy

**Re: Cover letter to Cardinal Hummes for St. Mary's, Jamesville, NY
Hierarchical Recourse in Response to Decree Of Suppression and Confiscation
(Follow up to appeal letter dated 5-1-07 for Administrative Recourse Process)**

Dear Cardinal Hummes:

We are taking recourse in this dual fashion because we were:

1. not told our rights initially
2. not consulted in a consistent manner
3. unsure whether the bishop is using our previous unanswered letters of preliminary recourse to him dated May 1, 2007

However to ensure our rights are protected, the attached is our formal appeal.

Sincerely in Christ,

Finance Committee Members
Parish Council Members
Parishioners
(Signatures can be found on page 10 of the formal appeal attached.)

Cc: Archbishop Sambini
Bishop Moynihan

May 29, 2007

Archbishop Pietro Sambi
Apostolic Nuncio to the United States
3339 Massachusetts Ave, N.W.
Washington, DC 20008

**Re: Cover letter to Pietro Sambi for St. Mary's, Jamesville, NY
Hierarchical Recourse in Response to Decree Of Suppression and Confiscation
(Follow up to appeal letter dated 5-1-07 for Administrative Recourse Process)**

Dear Archbishop Sambi:

We are sending the attached formal appeal to your attention as our Hierarchical Recourse in Response to Decree of Suppression and Confiscation for informational purposes.

Thank you for your consideration.

Sincerely in Christ,

Finance Committee Members
Parish Council Members
Parishioners
(Signatures can be found on page 10 of the formal appeal attached.)

Cc: Cardinal Hummes
Bishop Moynihan