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Cardinal Priest of the Holy Roman Church

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By the Grace of God and the Apostolic See

ARCHBISHOP OF NEW YORK

DECREE ON THE RELEGATION OF THE CHURCH OF OUR LADY OF PITY, SOUTH BRONX, NEW YORK

Whereas bishops “feed their sheep in the name of the Lord by fulfilling their office of teaching, sanctifying and governing them” and “pursue their apostolic work as witnesses of Christ to all people” (cf. Vatican II, Decree on the pastoral office of Bishops in the Church *Christus Dominus*, October 28, 1965, n. 11);

Whereas the Church is not an archeological museum but rather the old well of the village that gives water to the generations of today as it did to those of the past (Cf. Pope Saint John XXIII, Homily during the solemn liturgy in Byzantine-Slavic rite in honor of Saint John Chrysostom, November 13, 1960: AAS 52 [1960] 963: “La Chiesa Cattolica non è un museo di archeologia. Essa è l'antica fontana del villaggio che dà l'acqua alle generazioni di oggi, come la diede a quelle del passato.”);

Whereas church buildings are not simply meeting places for the faithful but the dwelling place of God and a symbol of the Church present in the locality and permanently designated for the worship to God, and whereas only those things which serve the exercise or promotion of worship, piety or religion are permitted in a sacred place (Congregation for Bishops, *Directory for the Pastoral Ministry of Bishops “Apostolorum Successores”*, February 22, 2004, n. 154 ; cf. can. 1210);

Whereas the diocesan bishop has the duty to exercise careful vigilance over the administration of all the goods which belong to public juridic persons subject to him (c. 1276 §1), and whereas the diocesan bishop, in the administration of goods, concerns

himself first of all with providing for divine worship, charity, the apostolate and the support of the clergy, these ends always being given precedence over all others (Congregation for Bishops, *Directory for the Pastoral Ministry of Bishops "Apostolorum Successores"*, February 22, 2004, n. 188);

Whereas the diocesan Bishop is to protect the unity of the universal Church and therefore is bound to promote the common discipline of the whole Church and to urge the observance of all ecclesiastical laws, and whereas the diocesan Bishop is to exercise vigilance so that abuses do not creep into ecclesiastical discipline, especially regarding the ministry of the word, the celebration of the sacraments and sacramental, the worship of God and the veneration of the saints, and the administration of goods (cf. can. 392);

Whereas the diocesan bishop has the duty to exercise careful vigilance over the administration of all the goods which belong to public juridic persons subject to him (c. 1276 §1), and whereas the diocesan bishop, in the administration of goods, concerns himself first of all with providing for divine worship, charity, the apostolate and the support of the clergy, these ends always being given precedence over all others (Congregation for Bishops, *Directory for the Pastoral Ministry of Bishops "Apostolorum Successores"*, February 22, 2004, n. 188);

Whereas charity and the other assistance to be bestowed on the poor and other things of this kind cannot be neglected in order to preserve a sacred building (cf. Supreme Tribunal of the Apostolic Signatura, Final Decree of the College of Judges *coram* Agustoni, May 4, 1996: "Praeterea ut salvetur aedificium sacrum negligi haud queunt eleemosyna ceteraque subsidia pauperibus praesertim elargienda et alia huiusmodi.");

Whereas where grave causes suggest that a church no longer be used for divine worship, the diocesan bishop, after having heard the presbyteral council, can relegate it to profane but not sordid use, with the consent of those who legitimately claim rights for themselves in the church and provided that the goods of souls suffers no detriment hereby (can. 1222 §2);

Whereas the grave cause of relegation to profane but not sordid use may exist not in one obvious grave cause but may arise from a combination of many just causes which combined together manifest a grave cause (cf. Congregation for Clergy, *Procedural Guidelines for the Modification of Parishes, the Closure or Relegation of Churches to Profane but not Sordid Use, and the Alienation of the Same*, 30 April 2013, Prot. No. 20131348);

Whereas the gravity of the reason results from the sum of the circumstances which show that the reason is of great importance in the concrete case (cf. Nicholas Schöch, "Relegation of Churches to Profane Use (C. 1222, §2): Reasons and Procedure," *The Jurist* 67 [2007] 491);

Whereas the parish of Our Lady of Pity in South Bronx, New York, was suppressed by decree of His Eminence, Edward Cardinal Egan, on September 15, 2005, and whereas, as a result of this suppression of the parish, the allocation of its goods, patrimonial rights, and obligations, in the absence of any statutes, went to the juridic person immediately superior, namely the Archdiocese of New York, thus applying canon 123;

Whereas Monsignor Gregory Mustaciuolo, Rector of the church of Our Lady of Pity, has requested, by letter of September 1, 2017, to relegate the church of Our Lady of Pity to profane but not sordid use, because of the immense financial burden to repair and to maintain the building, and the lack of archdiocesan resources for doing so without endangering key and vital archdiocesan programs and initiatives;

Whereas we have abundantly established that grave reasons required by canon 1222 §2 are present, even if some of the reasons invoked may not by themselves constitute a grave cause, they do so when taken together;

After a careful examination, it was established that nobody could legitimately claim rights for themselves in the church, understood primarily as patrimonial rights or rights associated with patrimonial rights (cf. Supreme Tribunal of the Apostolic Signatura, Final Decree of the College of Judges, 21 November 1988, *Communicationes* 20 [1988] 93: "Iura de quibus sermo fit in canone sunt praesertim iura patrimonialia vel eis assimilata, quae magna ex parte e fundatione vel aedificatione ecclesiae exsurgunt."), rights that are not presumed, but must be proven (Supreme Tribunal of the Apostolic Signatura, Decree of the Congresso, 5 May 1995: "Iura, de quibus sermo, non praesumuntur, sed de eorum concessione vel admissione ex parte competentis auctoritatis ecclesiasticae legitime constare debet." and "Non demonstratur haberi personas quae vera iura in ecclesia E. sibi legitime vindicant.");

After having heard the presbyteral council on October 12, 2017, and, after having exposed the motives for the relegation of the church, the presbyteral council gave a favorable advice for the relegation of the church of Our Lady of Pity, South Bronx, New York;

Therefore, I, the undersigned Archbishop of New York, have decided as follows:

DECREE

1. The church of Our Lady of Pity, South Bronx, New York, is hereby reduced to profane but not sordid use according to the prescripts of canon 1222 §2 for the grave causes mentioned above.
2. Negotiations that may lead to the sale of the property can start, notwithstanding the need to follow the proper procedures when it comes to effectively alienate the property.
3. Prior to alienation, all sacred objects, relics, sacred furnishings, stained-glass windows, bells, confessionals, altars, etc. are to be removed for use in other sacred edifices or to be stored in ecclesiastical custody. In case the altars cannot be removed, they must be destroyed (cf. cann. 1212 and 1238).

This decree is effective immediately. At the same time, I order this decree to be made public to all the faithful through its publication on this day on the website of the Archdiocese. This publication on the website will be the legitimate notification. A notarized copy of the decree will be sent to the pastor, and an announcement will be made in the Archdiocesan newspaper.

All those who claim to have been aggrieved by this decree are herewith notified that, if they desire to file recourse against our decree, they are required, *ad validitatem*, to submit a petition in the sense of canon 1734 §1 to us within ten useful days from the legitimate notification of this decree.

Given at the Chancery, New York, NY, this 30th day of November 2017, Feast of Saint Andrew, Apostle.



Timothy Michael Cardinal Dolan
Archbishop of New York



Rev. Msgr. Greg Mustaciuolo
Chancellor