



HIS EXCELLENCY
MOST REVEREND MICHAEL W. FISHER
By the Grace of God and the Authority of the Apostolic See
BISHOP OF BUFFALO

**DECREE OF THE MERGER OF ASCENSION PARISH, BATAVIA AND ITS
TERRITORY INTO RESURRECTION PARISH, BATAVIA**

THE FACTS

Ascension Parish, Batavia is one of the parishes born of the Journey of Faith and Grace initiative in the early part of the twenty-first century. On 1 April 2008, Ascension Parish was formed as a combination of St. Anthony Parish, Batavia and Sacred Heart Parish, Batavia. Although not specified in the decree of merger, the *de facto* parish church at the time of this merger was Sacred Heart church.

On 29 November 2012, the Most Reverend Richard J. Malone issued a decree reducing the church of St. Anthony to profane but not sordid use in accord with canon 1222 §2. This was executed on 31 December 2012.

With the parish now utilizing only one church building, there was a need for renovations to the site. These being completed, the pontifical ceremony of blessing and dedicating an altar was celebrated by the Most Reverend Michael W. Fisher on 11 December 2021. Ascension Parish has faithfully served the people of its territory since its foundation in 2008. In September of 2022, Ascension Parish was included in Family #12 as part of the Road to Renewal program.

The Road to Renewal has allowed the diocese to gain a more realistic picture of the financial and sacramental situations in its parishes. Ascension Parish has been identified as a community that could benefit by being joined with its sister community in Batavia. Additionally, due to our need to amass a substantial sum of money to settle numerous civil claims in Federal Bankruptcy Court, the possibility of alienating this property has also been suggested. This was discussed with members of the Chancery and especially with the Reverend Bryan Zielenieski, Vicar for the Renewal. As a result of these conversations, I hereby issue the following decree.

THE LAW

Because a parish is a public juridic person (cc. 116, 515 §3) and therefore established perpetually (c. 120), it can only be extinguished by legitimate authority according to the norm of law. Canon 515 §2 states, "It is only for the diocesan bishop to erect, suppress, or alter parishes. He is neither to erect, suppress, nor alter notably parishes, unless he has heard the presbyteral council."

Unstated in this norm is the requirement for at least a just cause in augmenting the structure of a parish. As a parish is defined in law as "a certain community of the Christian faithful stably constituted in a particular church, whose pastoral care is entrusted to a pastor (*parochus*) as its proper pastor (*pastor*) under the authority of the diocesan bishop" (c. 515 §1), the focus of such augmentation is primarily concerned with the pastoral care of a group of people and only secondarily interested in specific worship sites. Thus, a merger of parishes falls under the governing authority of the diocesan bishop in accord with canon 374 §1.

Following the norm of canon 121, when two public juridic persons "are so amalgamated that one aggregate, itself with a juridic personality, is formed, this new juridic person obtains the goods and patrimonial rights proper to the prior ones and assumes the obligations with which they were burdened." The eminent canonist Reverend Robert Kennedy notes, "Canon 121...focuses on what, in the United States, is called a consolidation, in which two or more juridic persons are so joined that each of them loses its own juridic identity and in their stead a new juridic person is constituted. A consolidation involves both the suppression and creation of juridic persons" ("Chapter II: Juridic Persons" in *New Commentary on the Code of Canon Law* (New York: Paulist Press, 2000) 168). Since the norm of canon 121 assumes a consolidation in which two juridic persons go out of existence to form a new juridic person from the amalgamation of the former entities, it does not strictly apply to the situation of a parochial merger in which one entity absorbs another.

When the principle of law contained in canon 121 is applied to the canonical merger of one parish into another, the receiving parish must assume all net assets and debts of the merging parish. Here the term "net assets" is used to indicate that the merging parish is responsible for paying off its debts before an accurate assessment of what constitutes the temporal goods of the merging parish can be determined. "Commutative justice," the *Catechism of the Catholic Church* reminds us, "obliges strictly; it requires...paying debts" (n. 2411). This amount, once established, will be transferred to the receiving parish. What would be a clear *a iure* transfer of assets and liabilities to a newly constituted juridic person described in canon 121, is only partially applicable to the situation of a merging parish and can thus be addressed in terms of "net assets" to be identified at a future date.

THE ARGUMENT

The reshaping of the diocese to prepare it for more effective ministry in the future requires a certain consolidation of resources. The goal of the Road to Renewal is to reduce the strain on our already limited number of priests while at the same time uniting communities to foster a greater drive to “go out to all the world and preach the Gospel to all creation” (Mk 16:15). Part of this process requires the merging of parishes and the overall reduction of physical worship sites throughout the diocese. Looking at Ascension Parish in particular, the research and consultation done by the Office for Renewal and Development has revealed that this community would be better served by joining its resources to Resurrection Parish in an extinctive merger.

On 27 August 2024, the presbyteral council met at the Catholic Center of the Diocese of Buffalo. At this meeting, I consulted the council about the possibility of merging Ascension Parish into Resurrection Parish, Batavia. Rev. Zielenieski pointed out that there would likely only be three available priests (1 Diocesan and 2 Mercedarians) serving in Family #12 by 2030. Resurrection Parish was also considered to absorb the territory of other nearby parishes so as to centralize pastoral ministry and increase efforts for evangelization. This proposal received nearly unanimous support from the members of the Presbyteral Council present on 27 August.

Having heard the Presbyteral Council on this issue, I have chosen to merge Ascension Parish into Resurrection Parish in accord with canon 515 §2.

Thus, having done the requisite consultations and having gained the required consents, I, the undersigned Most Reverend Michael W. Fisher, Bishop of Buffalo, exercising my ordinary power in virtue of canon 515 §2, do hereby decree that Ascension Parish, Batavia be merged into Resurrection Parish, Batavia and Ascension to be extinct thereby.

Resurrection Parish will be the recipient of the net assets and liabilities of Ascension Parish. The territorial boundaries of Resurrection Parish will henceforth include:

The entire City and Town of Batavia east of Kelsey Rd. and Wortendyke Rd. and that part of the Township of Stafford that is north of Rte. 5 and west of Byron-Stafford Rd.

The intentions of the founders and donors regarding the temporal goods and patrimonial rights proper to the extinct Ascension Parish, insofar as they exist, must be respected. In addition, the temporal goods and patrimonial rights, and obligations of the extinct Resurrection Parish must be defined and allocated according to the norm of law (cf. cc. 121-122) as interpreted by this document.

All the parish and sacramental records of the extinct Ascension Parish, St. Anthony Parish, and Sacred Heart Parish are to be properly preserved and safeguarded in the parish archives of Resurrection Parish, Batavia, in accord with the norm of law.

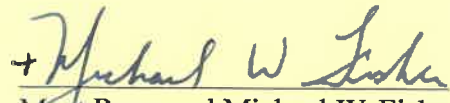
This decree is to be effective on Friday 22 November 2024.

This decree is to be communicated to the Rev. Scottston F. Brentwood, O. de M., J.C.L., the Moderator of the priests *in solidum* assigned to care for both parishes (c. 520 §1) and the two parishes affected by this extinctive merger (cf. cc. 7, 54 §1). Anyone who feels his or her rights have been legitimately harmed by this decree, may present a challenge by requesting its revocation or emendation to its author within ten (10) useful days from its legitimate notification. Further recourse will follow the norms of canons 1734-1739.

Given at the Chancery of the Diocese of Buffalo on this 16th day of October 2024.



Ms. Melissa Potzler
Chancellor

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Most Reverend Michael W. Fisher
Bishop of Buffalo