



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 ST. BERNADETTE PARISH, ORCHARD PARK AND
ITS TERRITORY INTO SS. PETER AND PAUL PARISH, HAMBURG**

THE FACTS

In 1958 the parish community of St. Bernadette was canonically recognized. Their first order of business, under the direction of their founding Pastor, the Rev. Msgr. Harry W. Osborne, was to build a space for divine worship. Land was graciously donated by the Edward J. Benz family in accord with canon 1513 *CIC/17*. A groundbreaking ceremony was held on 22 July 1958 and the initial school-auditorium structure was completed on 1 February 1959. The first Mass was also celebrated on this date in the newly finished building. September 1959 saw the opening of the school which welcomed 230 children that year for all grade levels offered.

A new church was next on the list. In 1968, during the pastorate of Rev. Thomas P. Carey, ground was broken for the new edifice. Completed on 28 March 1970, the new sacred building held the Easter Vigil as its first eucharistic celebration.

On 19 March 1974, St. Bernadette Parish received its third Pastor, the Rev. Msgr. Richard T. Nugent. Known for his writing and pastoral style, Rev. Msgr. Nugent led St. Bernadette Parish until 2007. During these years, a parish center would be built, the school would receive a cafeteria, a convent would be constructed, and more land would be acquired. All of this was made possible through the generous donations of the faithful who wished to contribute to the mission of St. Bernadette Parish.

In 2014, St. Bernadette Parish lost its parochial school after the matter was adjudicated by the Roman Curia. Despite this loss, St. Bernadette continued to minister to the faithful of Orchard Park and the surrounding areas. Contemporarily, St. Bernadette is one of the few parishes which hosts perpetual adoration. Their desire to remain faithful to what they have inherited remains one of the defining features of St. Bernadette Parish. In September of 2022, St. Bernadette Parish was included in Family #28 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. St. Bernadette Parish has been identified as a community that could benefit by being joined with its sister community in Hamburg. 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 St. Bernadette 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 SS. Peter and Paul 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 St. Bernadette Parish into SS. Peter and Paul Parish, Hamburg. Rev. Zielenieski pointed out that there would likely only be two available priests serving in Family #28 by 2030. SS. Peter and Paul Parish is also being considered to absorb the territory of other nearby parishes so as to centralize pastoral ministry and increase efforts for evangelization. This proposal received majority 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 St. Bernadette Parish into SS. Peter and Paul 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 St. Bernadette Parish, Orchard Park be merged into SS. Peter and Paul Parish, Hamburg and St. Bernadette to be extinct thereby.

SS. Peter and Paul Parish will be the recipient of the net assets and liabilities of St. Bernadette Parish. The territorial boundaries of SS. Peter and Paul Parish will henceforth include:

1. the territory south of Camp Rd. from Southwesterns Blvd. to Mae Lou Dr.; Mae Lou Dr. and Quinby Dr. to McKinley Pkwy. north to the Northern Town Line of Orchard Park as far east as California Rd.;
2. the territory west of California Rd. and Murphy Rd. to Rte. 219 as far as Boston State Rd. (Rte. 391);

3. the territory east of Southwestern Blvd. from Camp Rd. to Schultz Rd. to Lake View Rd. to North Creek to Eden Town Line;
4. the territory north of Eden Town Line to East Eden Rd. to Eckhard Rd. to Boston State Rd.

The intentions of the founders and donors regarding the temporal goods and patrimonial rights proper to the extinct St. Bernadette Parish, insofar as they exist, must be respected. In addition, the temporal goods and patrimonial rights, and obligations of the extinct St. Bernadette 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 St. Bernadette Parish are to be properly preserved and safeguarded in the parish archives of SS. Peter and Paul Parish, Hamburg, in accord with the norm of law.

This decree is to be effective on Monday 1 May 2025.

This decree is to be communicated to the Rev. James D. Ciupek, the Pastor of both parishes (c. 532) 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 12th day of November 2024.



+ Michael W Fisher

Most Reverend Michael W. Fisher
Bishop of Buffalo

Ms. Melissa Potzler

Ms. Melissa Potzler
Chancellor