

WE CAN'T REGULATE THAT?

LIMITATIONS ON MUNICIPAL LAND USE REGULATION IN TEXAS

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Religious Land Uses



Religious Land Uses Under RLUIPA

- Religious Land Use and Institutionalized Persons Act (RLUIPA) adopted by Congress in 2000
- In brief, in order to secure the rights of individuals to pursue and practice their religious beliefs, RLUIPA provides religious institutions protection from discrimination by local governments in land use regulations and the processing of applications for the construction of buildings to be used for religious purposes
- RLUIPA permits private individuals to challenge substantial burdens on religious exercise

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What is “Religious Exercise” Under RLUIPA?

- Religious exercise is “any exercise of religion whether or not compelled by, or central to, a system of religious belief” and the “use, building, or conversion of real property for the purpose of religious exercise shall be considered to be religious exercise of the person or entity that uses or intends to use the property for that purpose”
- Includes construction, expansion or remodeling of a place of worship and use of a private home or business property for worship, prayer meetings or other religious activities
- Includes activities like soup kitchens, group homes or homeless shelters
- Not every activity of a church falls under RLUIPA’s protections (open to non-members, payment of fees to use, etc.)



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What would constitute a substantial burden on religious exercise?

- **Nowhere** to locate in a jurisdiction
- **Inability** to use property for religious purposes
- Imposing excessive and unjustified **delay, uncertainty or expense**
- **Religious animus** expressed by municipal officials



What does NOT constitute a substantial burden on religious exercise?

- **Timely denial** that leaves other sites available
- Denial that has a **minimal impact** on the religious assembly
- Denial where there is **no reasonable expectation** of an approval
- **Personal preference, cost, or inconvenience**



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