

LIMITATIONS ON MUNICIPAL LAND USE REGULATION IN TEXAS

Terrence S. Welch
Brown & Hofmeister, L.L.P.
740 E. Campbell Road, Suite 800
Richardson, Texas 75081



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

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

CHABAD

 Not every activity of a church falls under RLUIPA's protections (open to non-members, payment of fees to use, etc.)

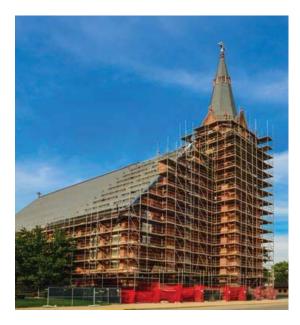
What would constitute a substantial burden on religious exercise?

- 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







Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the <u>UT Law CLE eLibrary (utcle.org/elibrary)</u>

Title search: We Can't Regulate That? Limitations on Municipal Land Use Regulation in Texas

Also available as part of the eCourse

Trending Land Use Issues for Municipalities

First appeared as part of the conference materials for the 23^{rd} Annual Land Use Conference session "We Can't Regulate That?"