



U.S. Department of Justice
Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

March 19, 2024

Re: The Religious Land Use and Institutionalized Persons Act

Dear State, County, and Municipal Officials:

I am writing to you today to remind you of the obligation of public officials to comply with the land use provisions of the Religious Land Use and Institutionalized Persons Act (RLUIPA), and to inform you about documents issued by the Department of Justice (Department) that may be of assistance to you in understanding and applying this important federal civil rights law.

The freedom to practice religion according to the dictates of one's conscience is among our most fundamental rights, written into our Constitution and protected by our laws. In our increasingly diverse nation, and at a time when many faith communities face discrimination, the Department continues to steadfastly defend this basic freedom to ensure that all people may live according to their beliefs, free of discrimination, harassment, or persecution.

Over the years, Congress has passed several laws that protect the religious liberties of those who live in America, including the landmark Civil Rights Act of 1964 and the 1996 Church Arson Prevention Act. In 2000, Congress, by unanimous consent, and with the support of a broad range of civil rights and religious organizations, enacted the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 2000cc et seq. Congress determined that there was a need for federal legislation to protect people and religious institutions from unduly burdensome, unreasonable, or discriminatory zoning, landmarking, and other land use regulations.ⁱ It heard testimony that houses of worship, particularly those of minority religions and start-up churches, were disproportionately affected in an adverse way, and in fact were often actively discriminated against by local land use decisions. Congress also found that religious institutions were treated worse than secular places of assembly like community centers, fraternal organizations, and theaters, and that zoning authorities frequently violated the United States Constitution by placing excessive burdens on the ability of congregations to exercise their faiths.

RLUIPA includes a private right of action, which allows individuals to enforce its provisions. Congress also gave the Attorney General the authority to enforce RLUIPA, and the Department of Justice has been active in enforcing this important civil rights law since its enactment. To date, the Department has opened over 155 formal investigations and filed nearly 30 lawsuits related to RLUIPA's land use provisions.ⁱⁱ The Department has also filed 36 "friend-of-the-court" briefs addressing the interpretation and application of RLUIPA in privately-filed lawsuits. Through these efforts, as well as those by private parties, RLUIPA has helped secure for thousands of individuals and institutions the freedom to practice their faiths without discrimination.

Yet, more than twenty-three years after RLUIPA's enactment, far too many people and communities remain unaware of the law, or do not fully understand the scope of its provisions. The Department of Justice implemented its *Place to Worship* Initiative in 2018, through which we continue to work to increase both public awareness and enforcement of RLUIPA's land use provisions.ⁱⁱⁱ As

participants at recent outreach events have indicated, and as the Department's own investigations have revealed, there are still many municipal, county, and other local officials who are insufficiently familiar with the land use provisions of RLUIPA and with their obligations under this important federal civil rights law. The Department has also received reports that religious groups, particularly those from less widely practiced religious traditions, continue to face unlawful barriers in the zoning and building process. Our work in this area suggests that litigation is far less likely if local officials are aware of RLUIPA and consider its protections early in the process of reviewing land use applications from religious organizations.

In light of this, we are sending this letter to you and other officials throughout the country to ensure that you are aware of your obligations under RLUIPA and its key provisions. Ensuring that our constitutional and statutory protections of religious freedom are upheld requires that federal, state, and local officials work together. To that end, we encourage you to share this letter with your colleagues. We hope that you will continue to work with the Department and view us as a partner in ensuring that no individual in this country suffers discrimination or unlawful treatment because of their faith.

1. RLUIPA provides broad protections for religious individuals and institutions.

RLUIPA's land use provisions provide several protections for places of worship, faith-based social service providers, and religious schools, as well as for individuals using land for religious purposes. Specifically, RLUIPA provides for:

- *Protection against substantial burdens on religious exercise:* Section 2(a) of RLUIPA prohibits the implementation of any land use regulation that imposes a "substantial burden" on the religious exercise of a person or institution except where justified by a "compelling government interest" that the government pursues using the least restrictive means.
- *Protection against unequal treatment for religious assemblies and institutions:* Section 2(b)(1) of RLUIPA provides that religious assemblies and institutions must be treated at least as well as nonreligious assemblies and institutions.
- *Protection against religious or denominational discrimination:* Section 2(b)(2) of RLUIPA prohibits discrimination "against any assembly or institution on the basis of religion or religious denomination."
- *Protection against total exclusion of religious assemblies:* Section 2(b)(3)(A) of RLUIPA prohibits governments from imposing or implementing land use regulations that totally exclude religious assemblies from a jurisdiction.
- *Protection against unreasonable limitation of religious assemblies:* Section 2(b)(3)(B) of RLUIPA prohibits governments from imposing or implementing land use regulations that "unreasonably limit" religious assemblies, institutions, or structures within a jurisdiction.

While the majority of RLUIPA cases involve places of worship such as churches, synagogues, mosques, and temples, the law is written broadly to cover a wide range of religious uses and types of religious exercise. The "substantial burden" provision in Section 2(a) of the statute applies to burdens on "a person, including a religious assembly or institution." The remaining provisions apply to any religious "assembly or institution." Thus, RLUIPA applies widely not only to diverse places of worship, but also to religious schools, religious camps, religious retreat centers, religious cemeteries, and religious social service facilities such as group homes, homeless shelters, and soup kitchens, as well as to individuals or families exercising their religion through the use of property, such as home prayer gatherings or Bible studies.^{iv}

To be clear, RLUIPA does not provide a blanket exemption from local zoning or landmarking laws. Rather, it contains a number of safeguards to prevent discriminatory, unreasonable, or unjustifiably burdensome regulations from hindering religious exercise. Ordinarily, before seeking recourse under RLUIPA, those seeking approval for a religious land use will have to apply for permits or zoning relief according to the regular procedures set forth in the applicable ordinances, unless doing so would be futile or the regular procedures are themselves discriminatory or create an unjustifiable burden. While zoning is primarily a local matter, where it conflicts with federal civil rights laws such as the Fair Housing Act or RLUIPA, federal law takes precedence.

Each of RLUIPA's protections mentioned above are discussed in greater detail below.^v

2. RLUIPA protects against unjustified burdens on religious exercise.

Land use regulations frequently can impede the ability of religious institutions to carry out their mission of serving the religious needs of their members. Section 2(a) of RLUIPA bars imposition of land use regulations that create a “substantial burden” on the religious exercise of a person or institution, unless the government can show that it has a “compelling interest” for imposing the regulation and that the regulation is the least restrictive way for the government to further that interest. A mere inconvenience to a person or religious institution is not sufficient to constitute a burden, but a burden that is substantial may violate RLUIPA. For example, in a case in which the United States filed a friend-of-the-court brief in support of a Maryland church's challenge to a zoning amendment that prohibited it from building an expanded church on its property, a federal appeals court ruled that the church has “presented considerable evidence that its current facilities inadequately serve its needs,” and that the “delay, uncertainty and expense” caused by the local government's action may create a substantial burden on the church's religious exercise in violation of RLUIPA.^{vi} The court relied on facts showing that the church's current facility was inadequate for its congregation and that it had a reasonable expectation that it could develop its new property. Similarly, the Department of Justice filed suit in a Connecticut federal district court alleging that a city's denial of zoning approval for an Islamic Center to establish a mosque imposed a substantial burden on the congregation.^{vii} The City had required the group to apply for a Special Exception Permit, which it did not require for other types of institutional land uses within the zone, and then denied the permit. The case was resolved by a consent decree in federal court.

If application of a zoning or landmarking law creates a substantial burden on religious exercise, such application is invalid unless it is supported by a compelling governmental interest pursued through the least restrictive means.^{viii} While RLUIPA does not define “compelling interest,” the U.S. Supreme Court has explained that compelling interests are only “interests of the highest order.”^{ix} Further, local governments cannot rely on generalized, “broadly formulated interests,” but instead must “show that the compelling interest test is satisfied through application of the challenged law to . . . the particular claimant whose sincere exercise of religion is being substantially burdened.”^x

3. RLUIPA protects equal access for religious institutions and assemblies.

Section 2(b)(1) of RLUIPA, known as the “equal terms” provision, mandates that religious assemblies and institutions be treated at least as well as nonreligious assemblies and institutions. For example, a federal appeals court ruled that zoning provisions that prohibited religious assemblies on the ground floor of buildings on a city's downtown main street but permitted nonreligious uses, such as theaters, on the ground floor of such buildings violated the equal terms provision.^{xi} In 2019, the Department brought suit under RLUIPA's equal terms provision against a city in Michigan for imposing zoning approval requirements on places of worship that it did not impose on comparable nonreligious assembly uses, and then denying zoning approval to a Muslim group seeking to establish the only

permanent place of Islamic worship in the city.^{xiii} The court granted summary judgment to the United States, finding that the city had violated RLUIPA's equal terms provision by requiring places of worship to abide by more onerous zoning restrictions than "similarly situated" places of nonreligious assembly.^{xiii}

4. RLUIPA protects against religious discrimination in land use.

Section 2(b)(2) of RLUIPA bars discrimination "against any assembly or institution on the basis of religion or religious denomination." Thus, if an applicant is treated differently in a zoning or landmarking process because of the religion represented (e.g., Christian, Jewish, Muslim), or because of the particular denomination or sect to which the applicant belongs (e.g., Catholic, Orthodox Jewish, or Shia Muslim), then RLUIPA will be violated. The Department of Justice filed suit alleging that a Texas city discriminated against an Islamic association in violation of Section 2(b)(2) when it denied the association permission to build a cemetery due to anti-Muslim sentiment, including opposition by citizens who expressed anti-Muslim bias. The case was resolved when the city relented and granted the association permission to develop the cemetery.^{xiv} Similarly, the Department filed suit to challenge a New Jersey township's adoption and application of discriminatory zoning ordinances that targeted the Orthodox Jewish community by prohibiting religious schools and associated dormitories.^{xv} The case was resolved by consent decree which required that, among other things, the township revise its zoning code.

5. RLUIPA protects against the total or unreasonable exclusion of religious assemblies from a jurisdiction.

Under section 2(b)(3) of RLUIPA, a zoning code may not completely, or unreasonably, limit religious assemblies in a jurisdiction. Thus, if there is no place where houses of worship are permitted to locate, or the zoning regulations, viewed as a whole, deprive religious institutions of reasonable opportunities to build or locate in the jurisdiction, even if they don't completely prevent them from doing so, a jurisdiction may run afoul of this provision. For example, a federal appeals court made clear that government land use restrictions can violate RLUIPA's unreasonable limitations provision even if religious uses are not entirely excluded from the jurisdiction, if the jurisdiction makes it more difficult for houses of worship to locate there.^{xvi} Similarly, the Department of Justice filed suit in New Jersey alleging that a township's revisions to its zoning code that significantly reduced both the number of zoning districts in which houses of worship could be located, and the number of sites available for them, unreasonably limited religious assemblies, institutions, and structures in violation of RLUIPA.^{xvii} The case was resolved by consent decree.

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The Department of Justice is committed to carrying out Congress's mandate and ensuring that religious assemblies and institutions do not suffer from discriminatory or unduly burdensome land use regulations. We look forward to working collaboratively with you and all other stakeholders on these important issues. If you have questions about the contents of this letter, or other issues related to RLUIPA, I encourage you to contact Noah Sacks, the Civil Rights Division's RLUIPA Coordinator, at 202-598-6366 or noah.sacks@usdoj.gov.

Sincerely,



Kristen Clarke
Assistant Attorney General
Civil Rights Division

ⁱ RLUIPA also contains provisions that prohibit regulations that impose a “substantial burden” on the religious exercise of persons residing or confined in an “institution,” unless the government can show that the regulation serves a “compelling government interest” and is the least restrictive way for the government to further that interest. 42 U.S.C. § 2000cc-1.

ⁱⁱ Much of this work is detailed in DOJ reports on enforcement issued in September 2010 (available at https://www.justice.gov/crt/rluipla_report_092210.pdf), July 2016 (available at <https://www.justice.gov/crt/file/877931/download>) and September 2020 (available at <https://www.justice.gov/media/1096176/dl?inline>).

ⁱⁱⁱ Further information about the Department’s *Place to Worship* Initiative is available at <https://www.justice.gov/crt/place-worship-initiative>.

^{iv} RLUIPA broadly defines religious exercise as “any exercise of religion, whether or not compelled by, or central to, a system of religious belief.” 42 U.S.C. § 2000cc-5(7)(A). Courts have found that a host of religious activities are protected by RLUIPA, including charitable acts by religious institutions. *See, e.g., Micah’s Way v. City of Santa Ana*, No. 8:23-CV00183, 2023 WL 4680804, at *5 (C.D. Cal. June 8, 2023) (finding that, under RLUIPA, faith-based ministry’s food distribution to those in need was religious exercise).

^v Further information may be found in the *Statement of the Department of Justice on Land Use Provisions of the Religious Land Use and Institutionalized Persons Act* (available at <https://www.justice.gov/crt/page/file/1071251/dl?inline>), and at the Department of Justice Civil Rights Division RLUIPA information page (<https://www.justice.gov/crt/religious-land-use-and-institutionalized-persons-act>).

^{vi} *Bethel Would Outreach v. Montgomery Cnty. Council*, 706 F.3d 548, 557-558 (4th Cir. 2013).

^{vii} *United States v. City of Meriden, Connecticut*, No. 3:20-CV-01669 (D. Conn. filed November 5, 2020).

^{viii} 42 U.S.C. § 2000cc(a)(1).

^{ix} *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 546 (1993).

^x *Holt v. Hobbs*, 574 U.S. 352, 363 (2015). When the U.S. Supreme Court later vacated the judgment of the Minnesota Court of Appeals in a different RLUIPA case, which had upheld a County’s requirement that Amish households install modern septic systems despite assertions that their religion forbade the use of such technology, one justice emphasized that “the question in this case ‘is not whether the [County] has a compelling interest in enforcing its [septic system requirement] generally, but whether it has such an interest in denying an exception’ from that requirement to the Swartzentruber Amish specifically.” *Mast v. Fillmore Cnty., Minnesota*, 141 S. Ct. 2430, 2432 (2021) (Gorsuch, J. concurring) (emphasis in original).

^{xi} *New Harvest Christian Fellowship v. City of Salinas*, 29 F. 4th 596, 608 (9th Cir. 2022).

^{xii} *United States v. City of Troy, Michigan* 2:19-CV-12736 (E.D. Mich. filed September 19, 2019).

^{xiii} *United States v. City of Troy, Michigan*, 592 F. Supp. 3d 591, 604 (E.D. Mich. 2022).

^{xiv} *United States v. City of Farmersville, Texas*, 4:19-CV-00285 (E.D. Tex. filed April 16, 2019).

^{xv} *United States v. Township of Jackson*, 3:20-CV-06109 (D. N.J. filed May 20, 2020).

^{xvi} *Rocky Mountain Christian Church v. Board of County Com’rs.*, 613 F.3d 1229, 1238 (10th Cir. 2010).

^{xvii} *United States v. Township of Toms River, NJ*, 3:21-CV-04633 (D. N.J. filed March 10, 2021).