

## RLUIPA Assessment

It seems that the important lesson here is just what the town lawyer stated succinctly during the discussion period at the P&Z meeting last month, that the most crucial issue is that the Town must treat all conditional use permits, and all entities in terms of zoning and applications, in the same manner, applying the zoning rules and regulations equally to all, whether the applicant be a religious or a secular entity.

To me, the issue here is NOT that the town is denying that the Mormons can erect a temple on the land next to their current meeting building, but that the building that WILL be erected must meet the local zoning requirements (reduced in overall size, height, and have the lighting meet the Town ordinances). This stance should make the Town's legal standing all the more viable and correct, in my view.

In addition, here are just a few quotes located online from various scholars with regard to these topics:

1. From [FEDERAL REGULATIONS GOVERNING CHURCHES | Jenkins & Bowen and Walker, P.C. | Cartersville, Georgia, Bartow County \(jbwpc.com\)](#):

"The important lesson under Free Exercise law [the free exercise clause of the federal 1st amendment] is to treat all such uses the same, whether they are being operated by a church or another institution."

2. From <https://justice.gov/crt/page/file/1071246/dl>:

### **"RLUIPA Requires Governments to Treat Religious and Secular Assemblies and Institutions Equally**

RLUIPA Section 2(b)(1) requirements local governments to treat religious assemblies the same as secular assemblies to implement zoning and land use regulations. In other words, if the government would grant an occupancy permit to a secular organization in a particular zone, then it also must grant an occupancy permit to a religious organization in the same zone."

3. From [Church Zoning May Be Permitted, With Conditions, in Many Districts](#)

"Actually, this federal law [RLUIPA] was aimed somewhat specifically at making sure that zoning and related land use controls were not oriented toward putting up **discriminatory** barriers against a particular religion or denomination, or at keeping out

all **new** religious uses by not allowing any new places of worship to have an opportunity to locate a particular jurisdiction.

But these provisions are far from saying that religious uses (places of worship, auxiliary uses such as day care or social services, and schools) can locate in any zoning district, and do so without further regulation.

The law also does not restrict the use of special use permits, conditional use permits, special exceptions, and other such methods, as long as the regulations are pertinent to a real governmental interest in regulating potential impacts of the religious use. Of course, permits could not be denied on a discriminatory basis (favoring one denomination over another, for example, or favoring existing land uses over new congregations).

Another key element of RLUIPA is that religious uses cannot be treated more restrictively than non-religious places of assembly, such as clubs, meeting halls, and the like."

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