

From: [Rebecca Messinger](#)
To: [Jose Alvarez](#); [Sonja Wisner](#)
Subject: FW: Federal law regarding protection of religion under 'Religious Land Use and Institutionalized Persons Act of 2000'. RLUIPA
Date: Thursday, January 11, 2024 4:31:15 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

FYI: please see the below comments from CCCU. Thank you!



Rebecca Messinger
Clerk to the Council
COUNTY MANAGER'S OFFICE

564-397-4305



From: Kathleen Otto <Kathleen.Otto@clark.wa.gov>
Sent: Thursday, January 11, 2024 3:02 PM
To: Rebecca Messinger <Rebecca.Messinger@clark.wa.gov>
Subject: FW: Federal law regarding protection of religion under 'Religious Land Use and Institutionalized Persons Act of 2000'. RLUIPA



Kathleen Otto
County Manager

564.397.2458



From: Clark County Citizens United, Inc. <cccuinc@yahoo.com>
Sent: Thursday, January 11, 2024 12:27 PM
To: Karen Bowerman <Karen.Bowerman@clark.wa.gov>; Gary Medvigy <Gary.Medvigy@clark.wa.gov>; Michelle Belkot <Michelle.Belkot@clark.wa.gov>; Glen Yung

<Glen.Yung@clark.wa.gov>; Sue Marshall <Sue.Marshall@clark.wa.gov>; Kathleen Otto <Kathleen.Otto@clark.wa.gov>; Oliver Orjiako <Oliver.Orjiako@clark.wa.gov>

Subject: Fw: Federal law regarding protection of religion under 'Religious Land Use and Institutionalized Persons Act of 2000'. RLUIPA

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Clark County Council
January 11, 2024
P.O. Box 5000
Vancouver, Washington 98666

Re:: Federal law regarding protection of religion under 'Religious Land Use and Institutionalized Persons Act of 2000'. RLUIPA '

Dear Councilors,

Clark County Citizens United, Inc. has copied and pasted the federal law that all jurisdictions must follow whenever they are considering land use law being applied to religions. In the case of the Old Apostolic Lutheran Church, Battle Ground, Clark County did not follow those guidelines, when they rejected the church's request to place a cemetery/graveyard on their property, next to the church.

By refusing to allow that to happen, via a Board Time meeting on November 28, 2023, the church was given no options and the county violated federal law. CCCU believes that Clark County must be compelled to rescind that decision. The county must allow the permitting needed to allow this church to place a cemetery/graveyard, for the purpose of serving the congregation's religious burial needs, on land where the church is located.

Sincerely,

Carol Levanen, Exec. Secretary

Clark County Citizens United, Inc.
P.O. Box 2188
Battle Ground, Washington 98604

Public Law 106–274 106th Congress

An Act To protect religious liberty, and for other purposes.
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE. This Act may be cited as the “**Religious Land Use and**

Institutionalized Persons Act of 2000”.

SEC. 2. PROTECTION OF LAND USE AS RELIGIOUS EXERCISE. (a) SUBSTANTIAL BURDENS.— (1) GENERAL RULE.—No government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly, or institution—

(A) is in furtherance of a compelling governmental interest; and

(B) is the least restrictive means of furthering that compelling governmental interest.

(2) SCOPE OF APPLICATION.—This subsection applies in any case in which—

(A) the substantial burden is imposed in a program or activity that receives Federal financial assistance, even if the burden results from a rule of general applicability;

(B) the substantial burden affects, or removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes, even if the burden results from a rule of general applicability; or

(C) the substantial burden is imposed in the implementation of a land use regulation or system of land use regulations, under which a government makes, or has in place formal or informal procedures or practices that permit the government to make, individualized assessments of the proposed uses for the property involved.

(b) DISCRIMINATION AND EXCLUSION.—

(1) EQUAL TERMS.—No government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution.

(2) NONDISCRIMINATION.—No government shall impose or implement a land use regulation that discriminates against 42 USC 2000cc. 42 USC 2000cc note. Religious Land Use and Institutionalized Persons Act of 2000. Sept. 22, 2000 [S. 2869] VerDate 11-MAY-2000 20:32 Sep 28, 2000 Jkt 079139 PO 00274 Frm 00001 Fmt 6580 Sfmt 6581 E:\PUBLAW\PUBL274.106 APPS05 PsN: PUBL274 114 STAT. 804 PUBLIC LAW 106–274—SEPT. 22, 2000

any assembly or institution on the basis of religion or religious denomination.

(3) EXCLUSIONS AND LIMITS.—No government shall impose or implement a land use regulation that— (A) totally excludes religious assemblies from a jurisdiction; or (B) unreasonably limits religious assemblies, institutions, or structures within a jurisdiction.

SEC. 3. PROTECTION OF RELIGIOUS EXERCISE OF INSTITUTIONALIZED PERSONS. (a) GENERAL RULE.—No government shall impose a substantial burden

on the religious exercise of a person residing in or confined to an institution, as defined in section 2 of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997), even if the burden results from a rule of general applicability, unless the government demonstrates that imposition of the burden on that person—

- (1) is in furtherance of a compelling governmental interest; and
- (2) is the least restrictive means of furthering that compelling governmental interest.

(b) SCOPE OF APPLICATION.—This section applies in any case in which

- (1) the substantial burden is imposed in a program or activity that receives Federal financial assistance; or
- (2) the substantial burden affects, or removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes.

SEC. 4. JUDICIAL RELIEF. (a) CAUSE OF ACTION.—A person may assert a violation of this Act as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

(b) BURDEN OF PERSUASION.—If a plaintiff produces prima facie evidence to support a claim alleging a violation of the Free Exercise Clause or a violation of section 2, the government shall bear the burden of persuasion on any element of the claim, except that the plaintiff shall bear the burden of persuasion on whether the law (including a regulation) or government practice that is challenged by the claim substantially burdens the plaintiff's exercise of religion.

(c) FULL FAITH AND CREDIT.—Adjudication of a claim of a violation of section 2 in a non-Federal forum shall not be entitled to full faith and credit in a Federal court unless the claimant had a full and fair adjudication of that claim in the non-Federal forum.

(d) ATTORNEYS' FEES.—Section 722(b) of the Revised Statutes (42 U.S.C. 1988(b)) is amended— (1) by inserting “the Religious Land Use and Institutionalized Persons Act of 2000,” after “Religious Freedom Restoration Act of 1993,”; and (2) by striking the comma that follows a comma.

(e) PRISONERS.—Nothing in this Act shall be construed to amend or repeal the Prison Litigation Reform Act of 1995 (including provisions of law amended by that Act). 42 USC 2000cc–2. 42 USC 2000cc–1. VerDate 11-MAY-2000 20:32 Sep 28, 2000 Jkt 079139 PO 00274 Frm 00002 Fmt 6580 Sfmt 6581 E:\PUBLAW\PUBL274.106 APPS05 PsN: PUBL274 PUBLIC LAW 106–274—SEPT. 22, 2000

114 STAT. 805

(f) AUTHORITY OF UNITED STATES TO ENFORCE THIS ACT.— The United States may bring an action for injunctive or declaratory relief to enforce compliance with this Act. Nothing in this subsection shall be construed to deny, impair, or otherwise affect any right or authority of the Attorney General, the United States, or any agency, officer, or employee of the United States, acting under any law other than this subsection, to

institute or intervene in any proceeding.

(g) LIMITATION.—If the only jurisdictional basis for applying a provision of this Act is a claim that a substantial burden by a government on religious exercise affects, or that removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes, the provision shall not apply if the government demonstrates that all substantial burdens on, or the removal of all substantial burdens from, similar religious exercise throughout the Nation would not lead in the aggregate to a substantial effect on commerce with foreign nations, among the several States, or with Indian tribes.

SEC. 5. RULES OF CONSTRUCTION. (a) RELIGIOUS BELIEF UNAFFECTED.—Nothing in this Act shall be construed to authorize any government to burden any religious belief. (b) RELIGIOUS EXERCISE NOT REGULATED.—Nothing in this Act shall create any basis for restricting or burdening religious exercise or for claims against a religious organization including any religiously affiliated school or university, not acting under color of law.

(c) CLAIMS TO FUNDING UNAFFECTED.—Nothing in this Act shall create or preclude a right of any religious organization to receive funding or other assistance from a government, or of any person to receive government funding for a religious activity, but this Act may require a government to incur expenses in its own operations to avoid imposing a substantial burden on religious exercise.

(d) OTHER AUTHORITY TO IMPOSE CONDITIONS ON FUNDING UNAFFECTED.—Nothing in this Act shall—

- (1) authorize a government to regulate or affect, directly or indirectly, the activities or policies of a person other than a government as a condition of receiving funding or other assistance; or
- (2) restrict any authority that may exist under other law to so regulate or affect, except as provided in this Act.

(e) GOVERNMENTAL DISCRETION IN ALLEVIATING BURDENS ON RELIGIOUS EXERCISE.—A government may avoid the preemptive force of any provision of this Act by changing the policy or practice that results in a substantial burden on religious exercise, by retaining the policy or practice and exempting the substantially burdened religious exercise, by providing exemptions from the policy or practice for applications that substantially burden religious exercise, or by any other means that eliminates the substantial burden.

(f) EFFECT ON OTHER LAW.—With respect to a claim brought under this Act, proof that a substantial burden on a person's religious exercise affects, or removal of that burden would affect, commerce with foreign nations, among the several States, or with Indian tribes, shall not establish any inference or presumption 42 USC 2000cc-3. VerDate 11-MAY-2000 20:32 Sep 28, 2000 Jkt 079139 PO 00274 Frm 00003 Fmt 6580 Sfnt 6581 E:\PUBLAW\PUBL274.106 APPS05 PsN: PUBL274 114 STAT. 806 PUBLIC LAW 106-274—SEPT. 22, 2000

that Congress intends that any religious exercise is, or is not, subject to any law other than this Act.

(g) BROAD CONSTRUCTION.—This Act shall be construed in favor of a broad protection of religious exercise, to the maximum extent permitted by the terms of this Act and the Constitution.

(h) NO PREEMPTION OR REPEAL.—Nothing in this Act shall be construed to preempt State law, or repeal Federal law, that is equally as protective of religious exercise as, or more protective of religious exercise than, this Act.

(i) SEVERABILITY.—If any provision of this Act or of an amendment made by this Act, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provision to any other person or circumstance shall not be affected.

SEC. 6. ESTABLISHMENT CLAUSE UNAFFECTED. Nothing in this Act shall be construed to affect, interpret, or in any way address that portion of the first amendment to the Constitution prohibiting laws respecting an establishment of religion (referred to in this section as the “Establishment Clause”). Granting government funding, benefits, or exemptions, to the extent permissible under the Establishment Clause, shall not constitute a violation of this Act. In this section, the term “granting”, used with respect to government funding, benefits, or exemptions, does not include the denial of government funding, benefits, or exemptions.

SEC. 7. AMENDMENTS TO RELIGIOUS FREEDOM RESTORATION ACT.

(a) DEFINITIONS.—Section 5 of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb–2) is amended— (1) in paragraph (1), by striking “a State, or a subdivision of a State” and inserting “or of a covered entity”; (2) in paragraph (2), by striking “term” and all that follows through “includes” and inserting “term ‘covered entity’ means”; and (3) in paragraph (4), by striking all after “means” and inserting “religious exercise, as defined in section 8 of the Religious Land Use and Institutionalized Persons Act of 2000.”.

(b) CONFORMING AMENDMENT.—Section 6(a) of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb–3(a)) is amended by striking “and State”.

SEC. 8. DEFINITIONS. In this Act: (1) CLAIMANT.—The term “claimant” means a person raising a claim or defense under this Act. (2) DEMONSTRATES.—The term “demonstrates” means meets the burdens of going forward with the evidence and of persuasion.

(3) FREE EXERCISE CLAUSE.—The term “Free Exercise Clause” means that portion of the first amendment to the Constitution that proscribes laws prohibiting the free exercise of religion.

(4) GOVERNMENT.—The term “government”— (A) means— (i) a State, county, municipality, or other governmental entity created under the authority of a State; 42

USC 2000cc-5. 42 USC 2000cc-4. VerDate 11-MAY-2000 20:32 Sep 28, 2000 Jkt 079139 PO 00274 Frm 00004 Fmt 6580 Sfmt 6581 E:\PUBLAW\PUBL274.106 APPS05 PsN: PUBL274 PUBLIC LAW 106-274—SEPT. 22, 2000 114 STAT. 807 LEGISLATIVE HISTORY—S. 2869: CONGRESSIONAL RECORD, Vol. 146 (2000): July 27, considered and passed Senate and House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 36 (2000): Sept. 22, Presidential statement. Æ (ii) any branch, department, agency, instrumentality, or official of an entity listed in clause (i); and (iii) any other person acting under color of State law; and (B) for the purposes of sections 4(b) and 5, includes the United States, a branch, department, agency, instrumentality, or official of the United States, and any other person acting under color of Federal law.

(5) LAND USE REGULATION.—The term “land use regulation” means a zoning or landmarking law, or the application of such a law, that limits or restricts a claimant’s use or development of land (including a structure affixed to land), if the claimant has an ownership, leasehold, easement, servitude, or other property interest in the regulated land or a contract or option to acquire such an interest.

(6) PROGRAM OR ACTIVITY.—The term “program or activity” means all of the operations of any entity as described in paragraph (1) or (2) of section 606 of the Civil Rights Act of 1964 (42 U.S.C. 2000d-4a).

(7) RELIGIOUS EXERCISE.— (A) IN GENERAL.—The term “religious exercise” includes any exercise of religion, whether or not compelled by, or central to, a system of religious belief.

(B) RULE.—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. Approved September 22, 2000.

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