

NAVIGATING THE LAND USE PROCESS

BEST PRACTICES FOR RELIGIOUS COMMUNITIES

Religious communities—particularly Muslim communities—frequently face opposition when trying to build houses of worship, religious schools, community centers, or cemeteries. While laws like the Religious Land Use and Institutionalized Persons Act (“RLUIPA”) provide a number of protections for religious communities whose land use permits are denied for discriminatory reasons, there are also preemptive measures communities can take to mitigate issues that may come up during the land development process.

This fact sheet provides an overview of some steps religious communities should consider when navigating land use or zoning processes—including any related public hearings. Following these steps may help minimize opposition and ensure that your project can proceed in a timely and efficient manner.

IDENTIFYING YOUR SITE: WHAT YOU NEED TO KNOW

When you are developing property for a religious use, it is important to give careful thought to your community’s current and future needs, and to understand some basic land use and zoning terminology.

- **Land use and zoning permits often require detailed information about the way you intend to develop a piece of land.** To answer these questions accurately, you should consider how your community will use the land—both now and in the near future.
 - For example, you should be prepared to answer questions about the current and future size of your religious community and what kind of facilities you plan to construct on the land.
- **You should also be familiar with the local zoning map and codes when identifying a property appropriate for your use.**
 - Check whether the land you want is zoned “as of right.” This means that certain uses—such as building a house of worship—are automatically permissible.
 - If the land is not zoned as of right, a “use variance” may be required to develop the land. This means you will need to formally request approval from the municipality to use the land in a way that is different from the uses approved in the zoning code. This may lengthen to application process.

IDENTIFYING YOUR TEAM: KNOW WHO CAN HELP

Navigating any land use or zoning process can be challenging.

- **You can often avoid frustration and complications down the road by assembling a team of trained professionals** who can help your religious community prepare, submit, and defend your land use or zoning application. This team may include a land use lawyer, engineer, and architect.
- **In some places, applicants may be permitted to meet with the zoning board staff or other relevant officials** before formally submitting their permit application. Taking advantage of this option—particularly with counsel present—can be greatly beneficial in learning more about the application process and avoiding complications that may arise later.

PUBLIC HEARINGS 101

Obtaining a permit to build your house of worship, religious school, community center, or cemetery involves a series of steps in the zoning process—one of which may be a public hearing. While the rules for public hearings may vary by state and county, they typically include a few standard characteristics:

- **A public hearing allows for open discussion of the zoning application.** Adjacent property owners will be informed of the zoning request and hearing so that they can attend and participate. Petitions, studies, and letters can also typically be submitted to municipal officials before the hearing.
- At the hearing, interested parties will have the opportunity to express their views and municipal officials can question applicants about potential issues or concerns. As the applicant, you may be asked to offer comments in support of your application during the hearing.
- **Municipal officials are required to conduct these hearings impartially.**

If you are developing property for your religious community and have questions or are experiencing difficulty, please contact Muslim Advocates at **(202) 897-2622** or religiousliberty@muslimadvocates.org.

PREPARING FOR AND ATTENDING YOUR PUBLIC HEARING

In recent years, public hearings—particularly when involving a permit for religious minorities—have become contentious, so it's important to be prepared. **While each permit applicant must strategically decide how they want to handle these hearings, there are a number of general principles to consider:**

- **Educate the public.** Many people may be misinformed or unfamiliar with certain faith traditions—particularly if communities are new to a region or are smaller in size. Consider arranging individual meetings with neighbors or broader town hall events to address any misconceptions.
- **Identify your allies.** If you think you might face opposition to your permit application, it is helpful to identify allies in your community and consider how you could mobilize their support if needed.
- **Be mentally prepared for a potentially large crowd and vocal opposition,** particularly if you are aware that opposition to your permit application has developed. Show up early to make sure that you get a seat, and, if you plan to speak, be sure to follow any sign-up procedures that might be required.
- **Think beforehand about what you want to say at the hearing.** Comments at public hearings are often limited in time and scope. Think about and practice what you want to say, and try to provide a different perspective than the ones the municipal body has heard from other speakers.
- **Don't respond directly to negative or discriminatory attacks from the opposition.** Although such comments may be hurtful and offensive, the municipal body deciding your permit application is bound by the *facts* before it—not any unsubstantiated assertions made by members of the public. If you are concerned that the opposition might express discriminatory views, consider working with the municipal body's staff before the hearing to ensure they have a procedure in place to address such comments.
- **Don't get into technical details during public comment.** Your experts—such as your lawyers, architects, and engineers—should be the only ones speaking about technical issues (such as parking ratios, traffic impact studies, projected number of visitors, etc.) related to your permit application.
- **Remain respectful and follow public hearing rules.** All public hearings are governed by a series of procedural rules that guide how the hearing should proceed. Be aware of these rules and follow them appropriately. Do not clap, cheer, boo, or make noise as others speak for or against your application.
- **Don't fight with the municipal body.** If you feel your application has been treated unfairly, raise those concerns with your experts—particularly your lawyer.