



# THE TEXAS MUNICIPAL LAWYER<sup>TM</sup>

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## ZONING ORDINANCE VIOLATED RELIGIOUS FREEDOM

The Texas Supreme Court recently ruled in favor of a religious ministry, concluding that zoning laws passed by the City of Sinton violated the Texas Religious Freedom Restoration Act (TRFRA), Tex. Civ. Prac. & Rem. Code § 110.

Philemon Restoration Homes, Inc., directed by Pastor Rick Barr, operated two half-way houses in Sinton. The purpose of the ministry was to offer housing, biblical instruction, and counseling to low-level non-violent drug offenders released from prison on probation or parole so they could transition back into the community. Both houses were owned by Barr and were located across the street from the church he attended. Initially, zoning restrictions did not prohibit the ministry, but after a contentious public hearing the City Council passed a zoning ordinance that prohibited correctional and rehabilitation facilities from being located within 1,000 feet of a residential area, school, park, public recreation area, or place of worship. Given the small size of the City (2.2 square miles), the ordinance effectively banned the ministry.

Barr sued the City claiming the ordinance violated the TRFRA, which provides that government “may not substantially burden a person’s free exercise of religion unless it demonstrates that the application of the

burden to the person...is in furtherance of a compelling governmental interest; and...is the least restrictive means of furthering that interest.” The ordinance was upheld by both the trial court and the appellate court, but struck down by the Texas Supreme Court. The Court also found that the City failed to establish: (a) a compelling interest for passing such an ordinance; and (b) that the City made no effort to show that it used the least restrictive means of furthering that interest.

This case serves as an important reminder that while the TRFRA does not completely immunize religious conduct from government regulation, it requires the government to tread lightly when its actions affect religious exercise.

## LEGAL Q & A

**Q** How many City Council meetings does it take to adopt a budget and tax rate?

**A** The number of meetings required by law can range from two to four depending on several factors, including the amount of property tax revenue the city collects, the tax rate imposed by the city, and whether there will be an increase in the effective or rollback tax rates. This does not prevent a city from having additional meetings as necessary, and different cities have different

needs. Many city councils choose to have budget workshops in the run up to the adoption process. The proposed budget can have an impact on whether the city proposes a tax increase or not, and city staff may not be authorized to make decisions on where to cut the budget in order to avoid proposing a tax rate increase.

The city council can make preliminary decisions affecting the creation of a “proposed” budget, however, the final budget must be adopted in accordance with the procedures set out in the Texas Local Government Code and the Texas Tax Code.

## EDUCATIONAL OPPORTUNITIES

- **August 28:** The City of New Braunfels will have Alan provide training on *Land Use & Development Regulations* to the P&Z and ZBA.
- **September 1:** The City of Jarrell will be conducting Open Government certification training by Alan.
- **September 4:** The Texas Municipal Human Resources Association’s Employment Law Seminar, at Moody Gardens, Galveston, TX, features Alan’s presentation on Employment Law & the Net.
- **September 10:** The City of Hutto hosts the TML Region X meeting, which is sponsored by the Bojorquez Law Firm.

**CLIENTS NEWS: BRADY GOAT COOK OFF**

The City of Brady will be co-sponsoring the 35th Annual Goat Cook Off on September 4th and 5th. Among the festivities will be 133 arts and crafts vendors, live music, nightly dances, and of course, the food. This year's theme is "The Goat Goes On Forever and the Party Never Ends."



The main attraction is the goat cook off, in which 175 teams will compete for the top prize of \$1,000. Nearly 7,000 guests are expected to attend. For more information, please visit [www.bradytx.com](http://www.bradytx.com).

**CLIENT NEWS: SALADO'S CHOCOLATE & ART FESTIVAL**

The Village of Salado will be co-sponsoring the 2nd annual Salado Chocolate and Art Festival from September 25-27. Nearly 600 guests are expected to attend and browse the streets of Salado in search of great chocolate and wine.

The Festival will feature chocolate and wine tasting, demonstrations on the process of mak-

ing chocolate, chocolate sampling, and an art gallery tour. Additionally, guests will be treated to a chocolate sculpting exhibition.

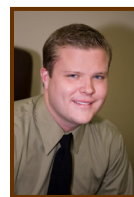


For more information, please visit [www.saladochocolatefestival.com](http://www.saladochocolatefestival.com).



**TEAM PROFILE: GERI JARL**

Geri Jarl, the firm's Office Manager for the past two and a half years, has moved to Mason, Texas. Geri will remain with the Bojorquez Law Firm as our Finance Director, and will be telecommuting. Her primary duties will be handling all bookkeeping, accounting and billing matters. *Warmest of wishes for your new home, Geri!*



**TEAM PROFILE: TYLER JARL**

Tyler Jarl, the firm's Office Assistant, has been promoted to Office Administrator. Tyler's primary duties will include overseeing the day-to-day operations of the firm, including overseeing Information Technology, Supplies, Travel, and Memberships.

**INTEGRITY AT CITY HALL**

**Q** Do nepotism restrictions apply to city volunteers?

Not under state law.

**A** Nepotism is the practice of giving public jobs to family members. Under Tex. Gov't Code Ch. 573, a public official cannot appoint an individual if:

- (1) the official is a member of a local governing body (e.g., city council);
- (2) The individual is related to another member of the governing body within the 3rd degree by consanguinity (blood or adoption) or within the 2nd degree by affinity (marriage); and
- (3) The position will be directly or indirectly compensated from public funds or fees of office.

Be sure to check home-rule charters or locally enacted ethics ordinances for additional regulations.

**CONGRATULATIONS CRISTINA!**

Associate Attorney Cristina Ruiz Blanton recently gave birth to her son Jonah. Both mother and son are doing well.



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