



## U.S. Department of Justice

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DJ: 210-48-47

United States Attorney's Office  
District of New Jersey

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September 17, 2020

By E-mail and FedEx

Anthony Merlino, Assistant Township Attorney  
Township of Toms River  
33 Washington Street  
Toms River, NJ 08753  
[amerlino@tomsrivertownship.com](mailto:amerlino@tomsrivertownship.com)

Re: Notice of Suit: *United States v. Toms River, New Jersey*

Dear Mr. Merlino:

As you know, the Department of Justice and the United States Attorney's Office for the District of New Jersey (collectively, the "Department") have been investigating the zoning and land use practices of Toms River, New Jersey (the "Township") under the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA"), 42 U.S.C. §§ 2000cc – 2000cc-5. The investigation has focused on how the Township's zoning laws affect religious land uses, including whether they unreasonably limit or substantially burden religious uses, assemblies, or institutions, or treat religious uses on less equal terms than nonreligious assemblies or institutions.

RLUIPA prohibits application of a land use regulation that: (1) imposes a substantial burden on religious exercise absent a compelling governmental interest pursued in the least restrictive means; (2) treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution; (3) discriminates against a religious assembly or institution

on the basis of religion or religious denomination; and/or (4) totally excludes or unreasonably limits religious assemblies, institutions, or structures within a jurisdiction.

This letter is to inform you that we have completed our investigation and that the Assistant Attorney General for the Civil Rights Division has authorized the filing of a complaint in federal district court against the Township. The complaint will allege that the Township's zoning laws unreasonably limit religious exercise, treat religious assemblies or institutions on less than equal terms with nonreligious assemblies or institutions, and substantially burden religious exercise, which burden does not further a compelling governmental interest and is not the least restrictive means of furthering a compelling interest.

DOJ will consider deferring the filing of the lawsuit for a short period if the Township is willing to enter into pre-suit negotiations in an effort to resolve this matter. Although the specific provisions are open to discussion, a resolution must, at a minimum: (1) provide relief to address the United States' allegations; (2) revise the Township's zoning ordinance to prevent future violations of RLUIPA; (3) provide for injunctive relief to ensure that zoning and land-use laws are implemented in a manner consistent with federal law; and (4) include mandatory RLUIPA training, record keeping, and periodic reporting to DOJ. We are willing to discuss the precise nature of revisions to the Township's zoning ordinance, but they must, at a minimum, involve significant changes that address the religious needs of Orthodox Jews, and other religious groups, who worship in small settings, travel on foot to attend houses of worship because of sincerely held religious beliefs, and have minimal need for parcels with large acreage. For example, revising the Township's zoning ordinance such that houses of worship require parcels with seven or more acres, as proposed in the Township's "Report on Amendments to Land Use Ordinances Governing Houses of Worship," is insufficient to remedy the Township's violations of RLUIPA.

In the meantime, as we have requested in our previous correspondence, please ensure that Township officials and employees are reminded to continue to preserve in their current form any and all records, documents, photos, videos, files, or tapes, including e-mails and computer files, that may be relevant to this matter.

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We hope the Township shares our interest in achieving a voluntary resolution of this matter. We ask that you inform us by no later than September 29, 2020, whether the Township is interested in entering into pre-suit settlement negotiations. If we do not hear from you by September 29, 2020, the United States may file its complaint without further notice. If the Township wishes to enter into pre-suit negotiations, please contact Noah Sacks ([noah.sacks@usdoj.gov](mailto:noah.sacks@usdoj.gov)), Assistant United States Attorney Michael Campion ([michael.campion@usdoj.gov](mailto:michael.campion@usdoj.gov)), or Assistant United States Attorney Susan Millenky ([susan.millenky@usdoj.gov](mailto:susan.millenky@usdoj.gov)), the attorneys with responsibility for this matter.

Sincerely,

Eric S. Dreiband  
Assistant Attorney General  
Civil Rights Division

Craig Carpenito  
United States Attorney  
District of New Jersey

By: /s/ Sameena Shina Majeed  
Sameena Shina Majeed  
Chief  
Housing and Civil Enforcement Section

By: /s/ Michael E. Campion  
Michael E. Campion  
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