MILLER & STARR
REAL ESTATE NEWSALERT

Reprinted in part from
Volume 22, Number 1, September 2011
(Article starting on page 3 in the actual issue)

ARTICLE

CHURCHES AND PROPERTY: UNDERSTANDING THE LAND USE COMPONENT OF THE RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT (RLUIPA)

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I. INTRODUCTION

Land use entitlements in California are affected by countless regulations, enactments, and policies. In every jurisdiction, would be developers face zoning, subdivision, and environmental compliance requirements. Some cities and counties require special permits—variances, conditional use permits, site plan review, and everything in between—to authorize the use of land. Compliance with these requirements can be time consuming, expensive, and exhausting. It is no surprise that developers often pray for relief from the most burdensome requirements. In some cases—religious uses, in particular—those prayers for relief have been granted.

Federal law requires that a local government establish a compelling governmental interest before imposing or implementing a land use regulation that imposes a "substantial burden" on religious exercise. While the law was originally enacted to prevent municipalities from using zoning laws to discriminate against churches, even local governments with the best of intentions have struggled with the land use implications presented by applications for church uses.

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There are a myriad of questions that would normally be considered by planners and City and County decisionmakers in their review of any land use entitlement application. These questions are presented in any context, regardless of the use proposed. For example: *Is this use appropriate for an industrial park or a neighborhood strip mall? Will it conflict with the relative peace and quiet of a residential neighborhood? Is there an adult-oriented business nearby? How many parking spaces are required? Will the use cause traffic problems?* While the relevance of these types of questions to land use planners cannot be disputed, in the case of churches, and other religious uses, the proverbial devil is in the details. If project conditions are incorrectly imposed or implemented, the local government could run afoul of federal law.

II. AN OVERVIEW OF RLUIPA

Enacted in 2000, the Religious Land Use and Institutionalized Persons Act[1] has been the subject of thousands of published decisions in both the state and federal courts across the country. The widely used acronym for the Act—RLUIPA (usual pronunciation: "ra-loop-a") –has been referred to by a reviewing court as "ungainly."[2]

RLUIPA was enacted in response to two United States Supreme Court decisions—*Employment Div. Dept. of Human Resources of Ore. V. Smith*[3] and *City of Boerne v. Flores*.[4] In the former case, the Court held that the Free Exercise Clause of the United States Constitution does not inhibit general enforcement of neutral laws that incidentally burden religious conduct.[5] In the latter case, the Supreme Court invalidated the Religious Freedom Restoration Act of 1993 as it applied to the states.[6]

Today, RLUIPA includes five broad land use-related prohibitions.[7] First, RLUIPA prohibits state and local governments[8] from imposing or implementing land use regulations "in a manner that imposes a *substantial burden* on the religious exercise" of persons, religious assemblies, and religious institutions unless the government demonstrates that the imposition of the burden is both (1) in furtherance of a compelling governmental interest and (2) the least restrictive means of furthering that compelling governmental interest.[9] Second, RLUIPA prohibits governments from imposing land use regulations that treat religious assemblies and institutions "on less than equal terms with a nonreligious assembly or institution."[10] Third, RLUIPA prohibits governments from imposing or implementing land use regulations that *discriminate against* religious assemblies or institutions on the basis of religion or religious denomination.[11] Fourth,

RLUIPA prohibits governments from imposing or implementing a land use regulation that "*totally excludes* religious assemblies from a jurisdiction."[12] And, fifth, RLUIPA prohibits the imposition or implementation of land use regulations that *unreasonably limit* religious assemblies, institutions, or structures.[13] This article focuses on the "substantial burden" and "on less than equal terms" provision of RLUIPA.

RLUIPA's term "substantial burden" is generally construed in light of federal Supreme Court and appellate jurisprudence involving the Free Exercise Clause of the First Amendment prior to the Court's decision in *Emp't Div. Dep't of Human Res. Of Oregon v. Smith*.[14] A "substantial burden" requires a government to "place more than inconvenience on religious exercise."[15] It must be "oppressive" to a "significantly great" extent.[16] "A substantial burden exists where the governmental authority puts 'substantial pressure on an adherent to modify his behavior and violate his beliefs.'"[17]

RLUIPA does not apply to all governmental decisionmaking. As discussed in this article, RLUIPA is applicable a local government's regulation of land use. The term "land use regulation" is expressly defined by RLUIPA to mean:

> …[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.[18]

In California, most standard zoning regulations fall within this definition. However, reviewing courts have held that regulations regarding condemnation and municipal annexations of land are not "land use regulations" under RLUIPA.[19] Additionally, laws permitting the confiscation of controlled substances from property used by religious organizations are not "land use regulations."[20] It remains an open question whether California's mandatory environmental review statute—the California Environmental Quality Act (CEQA)[21]—is a land use regulation subject to RLUIPA.[22]

RLUIPA's first prohibition—which prohibits the imposition or implementation of land use regulations in a manner that imposes a substantial burden on religious exercise—applies in any case in which the "substantial burden": (1) is imposed on a program or activity that receives

Federal financial assistance, even if the burden results from a rule of general applicability; (2) affects commerce with foreign nations, among the States or with Indian tribes, even if the burden results from a rule of general applicability; or (3) is imposed in the implementation of a land use regulation or a system of land use regulations, under which a government makes individualized assessments of the proposed uses for the property involved.[23] The Ninth Circuit Court of Appeals has held that a local conditional use permit requirement is an "individualized assessment" triggering the application of RLUIPA.[24]

A government seeking to avoid the preemptive force of RLUIPA's land use prohibitions may use any means to eliminate the substantial burden, including, but not limited to, changing applicable policies and practices, or exempting applications from applicable policies or practices.[25]

Importantly, RLUIPA does not grant churches or other religious institutions immunity from land use regulations. The primary sponsors of the legislation, Senator Orrin Hatch and Senator Edward Kennedy, placed a statement concerning RLUIPA in the Congressional Record the day it was passed by both houses of Congress to clarify this intent:

> This Act does not provide religious institutions with immunity from land use regulation, nor does it relieve religious institutions from applying for variances, special permits or exceptions, hardship approval, or other relief provisions in land use regulations, where available without discrimination or unfair delay. [26]

While other circuits have interpreted the "on equal terms" provision of RLUIPA,[27] the Ninth Circuit only recently interpreted and applied this provision.[28] This second RLUIPA provision prohibits a government's imposing a land use restriction on a religious assembly "on less than equal terms" with a nonreligious assembly."[29] The court considered the legality of an ordinance that allowed in its Old Town District, membership organizations "except religious organizations" as of right but required approval of a conditional use permit for religious organizations.[30] The court held that a plaintiff challenging a land use regulation under the equal terms provision of RLUIPA is required to show the existence of a secular comparator that is similarly situated with respect to an accepted zoning criteria and regulatory purpose of the regulation in question.[31] The municipality bears the burden of showing some distinction drawn with respect to churches, and demonstrate that the

less-than-equal terms apparent on the face of the regulation are on account of legitimate regulatory purpose, and not the fact that the institution is religious in nature.[32] The analysis should focus on what "equal" means in the particular context.[33] Also, unlike the substantial burden prong of RLUIPA, a compelling governmental interest is *not* an exception to this provision.[34] The circuits are not in agreement on the appropriate analysis.[35] For example, the Eleventh Circuit has held that the statute or regulation must undergo strict scrutiny to see if it should be upheld despite the violation.[36]

The same Ninth Circuit opinion addressed whether a successful plaintiff could obtain a damage award for a violation of RLUIPA. The court concluded that it depends on which governmental entity is being sued. The court explained that the United States Supreme Court has held that a *state* may not be held liable for damages under RLUIPA because it has not waived sovereign immunity.[37] However, the Eleventh Amendment's requirement of a clear expression of intent to abrogate sovereign immunity does not apply to municipalities. Thus, a municipality could be liable for damages under RLUIPA if a religious institution can prove a violation of the Act and damages arising therefrom.[38]

III. A REVIEW OF ADDITIONAL CALIFORNIA CASE LAW

Now in its tenth year, RLUIPA is a frequent subject of litigation. In the past two years, California courts have continued to wrestle with cases involving RLUIPA claims.

A. International Church of the Foursquare Gospel v. City of San Leandro

One of the most recent reported California case is *International Church of the Foursquare Gospel v. City of San Leandro*.[39] In that case, the International Church of the Foursquare Gospel ("ICFG") contended that the City of San Leandro violated its rights by denying a rezoning and conditional use permit application to allow a new church to be built in the City's Industrial Park zoning district. Among other things, ICFG alleged that the City's denial violated the "substantial burden" and "equal terms" provisions of RLUIPA.[40]

By way of background, in 2006, ICFG acquired two parcels in the City's Industrial Park ("IP") zoning district on which it hoped to develop a new sanctuary and accessory facilities. Prior to its acquisition of the property, ICFG met with City of San Leandro staff, and was advised that the San Leandro Zoning Code did not allow "assembly uses," including

churches, to locate in the City's Industrial Park zoning district. Such assembly uses were conditionally permitted uses elsewhere in the City. Because ICFG's proposed use was not permitted in the Industrial Park zoning district, City staff advised ICFG that two amendments to the zoning code would be required to authorize its proposed use. ICFG submitted an application to the City requesting the zoning code amendments.

Following submittal of the rezoning application, City staff and elected officials became concerned about potential policy and land use conflicts between industrial uses and assembly uses, and about the City-wide implications of permitting assembly uses in non-residential zoning districts. The City held several public meetings to consider the options for accommodating assembly uses in non-residential districts, and decided to pursue creation of an "Assembly Use Overlay District" to increase the available land for assembly uses by over 200 acres.

The City Council eventually adopted an ordinance creating an Assembly Use Overlay District within the City; however, the newly created district did not include the property ICFG had acquired. Consequently, ICFG filed an application to amend the zoning designation for its parcels from Industrial Park to Industrial Park with Assembly Use Overlay.

ICFG's rezoning application was denied by the City Council because it failed to satisfy two of the eight criteria that were used by the City to determine the suitability of a site for an Assembly Use Overlay. An additional application for a conditional use permit was also submitted by ICFG and denied. Following the denials, ICFG filed a lawsuit in federal court against the City challenging the denial.

The federal district court granted summary judgment in favor of the City, concluding that the denial of the applications did not violate the substantial burden and equal terms provisions of RLUIPA.

On appeal, the Ninth Circuit Court of Appeals reversed the district court. The appellate court first noted the applicability of RLUIPA in this case, as the City's treatment of ICFG's applications was an "individualized assessment" of the proposed uses of ICFG's property.[41] The court then discussed RLUIPA's two step "substantial burden" analysis:

> First, the plaintiff must demonstrate that a government action has imposed a substantial burden on the plaintiff's religious exercise. Second, once the plaintiff has shown a substantial burden, the government must show that its action was 'the least restrictive means' of 'furthering a compelling governmental interest.'[42]

Preliminarily, the court of appeals determined that the district court had erred by concluding that the City's zoning code, as a law of general applicability, could impose only an incidential burden on religious exercise. Stating that such a conclusion misinterpreted precedent and rendered RLUIPA's substantial burden provision superfluous, the court explained that its practice is to examine the particular burden imposed by the implementation of the relevant land use regulation on the claimant's religious exercise, and determine whether that burden is substantial. [43]

Noting the procedural posture of the case—a de novo review of the district court's grant of summary judgment in favor of the City—the court found that ICFG had raised more than a "mere…scintilla of evidence" that the City imposed a substantial burden on its religious exercise.[44] Specifically, the court referenced a report of ICFG's realtor that no other suitable properties existed within the City, and a determination by ICFG that the City's own criteria for establishing zones in which assembly uses could located, effectively rendered all other sites for ICFG's facility unavailable.[45] The court determined there existed a triable issue of material fact as to whether the City imposed a substantial burden on ICFG's religious exercise under RLUIPA.

Lastly, the court of appeals held that the district court erred in holding that the City's claimed need to preserve properties for industrial use qualified as a "compelling governmental interest" as a matter of law. Assuming, *arguendo*, that it was a compelling interest, the court expressed that genuine issues of material fact existed as to whether the City used the least restrictive means to achieve its interest.[46]

As a result of the court of appeals decision, the ICGF case has been returned for trial on the merits of ICGF's RLUIPA claims in the district court.

B. County of Los Angeles v. Sahag-Mesrob Armenian Christian School[47]

In May of 2008, a private religious school applied for a conditional use permit to allow it to operate a school on two separate parcels in a residential zone in the County of Los Angeles.[48] Less than four months after receiving the application, and prior to issuance of the required permit, the County received a complaint that the school was already operating. Following a site visit, a County zoning inspector mailed a Notice of Violation to the school giving it 15 days to cease operating the school.

In receipt of the notice, the school filed an application for a "clean hands waiver" which, if approved, would allow it to continue to operate the school while the original conditional use permit application was formally processed.[49] The County denied the school's waiver request, and following confirmation that the school continued to operate, the County filed an enforcement action in state court requesting, among other things, that the school be ordered to cease operation until a conditional use permit is secured.[50] In a cross-complaint, the school argued that the County had violated RLUIPA.

The County filed a motion for preliminary injunction, which the school opposed. The trial court granted the County's injunction request, finding that the denial of the requested "clean hands waiver" did not constitute a substantial burden on the exercise of religious beliefs within the meaning of RLUIPA.

The school appealed this ruling. In light of the procedural posture of the case—review of an order granting a preliminary injunction—an abuse of discretion standard of review was applicable.[51]

The parties agreed that the school was required to obtain a conditional use permit to lawfully operate in a residential zone.[52] The California Court of Appeal for the Second District affirmed the trial court's order against the school, finding that the requirement to secure a conditional use permit did not constitute a substantial burden on the exercise of religious freedom under RLUIPA.[53] The court found it important that the school knew it was required to secure a conditional use permit, yet began operating the school without the conditional use permit.[54] Consistent with Senator Hatch and Senator Kennedy's statement that RLUIPA did not provide land use immunity, the court stated:

> Requiring defendant to comply with a neutral conditional use permit application process is not a substantial burden on the practice of defendant's religious practices within the meaning of the act. No Supreme Court case holds the failure to comply with a neutral zoning application process is a substantial burden on the exercise of religious freedoms.[55]

The court also rejected the school's argument that the clean hands waiver application process violated RLUIPA. The Court found that the denial of the clean hands waiver application did not coerce the school "to conform to anybody's religious belief."[56]

Reaching the final issue on appeal, the court rejected the school's argument that the County violated RLUIPA's "equal terms" provision when it refused to grant the clean hands waiver application when other requests for such waivers had previously been approved.[57] The court found no evidence that any other entity seeking to use the property would be treated any differently.[58]

IV. "AN INTERESTING PROBLEM IN LAND USE LAW"

Last year, Justice Sills and Justice Aronson of California's Fourth District Court of Appeal authored a little read concurring opinion in an interesting case involving the City of Stanton's denial of an application for a permit to operate an adult-oriented cabaret.[59] This concurring opinion highlighted an "interesting problem in land use law" involving the location of churches in industrial parks.[60]

In *Madain v. City of Stanton*, the Court considered the City of Stanton's denial of an application to operate the proposed Avalon Show Girls adult-oriented cabaret. The City, which is located in northwestern Orange County, denied the application on the basis that the selected location—within the City's industrial zoning district—was within 300 feet of a planned church.[61] While the controlling majority opinion determined that the City of Stanton had abused its discretion by failing to address whether the church's application was entitled to priority in the City's planning process, the concurring opinion identified an the following land use conundrum:

> Industrial parks are well suited for adult businesses because they are generally removed from places where children are likely to congregate. Places like housing tracts, school, parks and…Churches. Or at least industrial parks used to be removed from churches.[62]

The concurring justices noted that it made sense for local governments to restrict adult businesses from areas that are an intrinsic draw for children.[63] However, the justices further noted that it made "far less sense to restrict adult institutions from the one place in most urban areas where they are likely to have the *least* secondary effects—those beige satanic mills known as industrial parks. One imagines that most fleshly palaces of sin…are not likely to be open for business on Sunday mornings."[64] Madain's attorney also made an interesting, land use-conflict related argument:

> Why protect a church? These are the people who are the most capable to withstand an adult cabaret. [65]

Madain v. City of Stanton was remanded with a direction to the trial court to issue a writ of mandate compelling the City of Stanton to vacate its denial of Madain's application for a permit to operate an adult-oriented cabaret and to reconsider the matter.[66] Last year, only a couple months after the Fourth District Court of Appeal issued its decision, the City did approve a conditional use permit to allow the church to operate in the City's industrial zone.[67] And just this past February, the City issued preliminary permits to allow Madain's Avalon Show Girls cabaret to operate upon the satisfaction of conditions primarily related to parking.[68]

RLUIPA was not mentioned in the majority opinion in *Madain v. City of Stanton*. RLUIPA was mentioned in the concurring opinion, wherein it was referred to as a "looming" federal statute applicable to churches and congregations efforts to locate in industrial parks.[69] What the concurring opinion does well, is highlight the increasing tension between church and other uses.

V. CONCLUSION

In California, RLUIPA is about as close as you can get to an exemption from land use regulation. Because of the wide variety of potential land use impacts caused by churches and other religious assemblies, RLUIPA has become an important tool in ensuring the viability of applications for new church development. While the recent caselaw demonstrates that RLUIPA is often used in a defensive posture, it is just as often used offensively, as part of an application for entitlements.

In the unlikely event that California's local jurisdictions streamline their entitlement processes for religious uses, RLUIPA may no longer be necessary. However, until the developers' prayers are answered, RLUIPA remains an avenue for relief from particularly burdensome regulation.

NOTES

1. 42 U.S.C.A. §§2000cc et seq.
2. *County of Los Angeles v. Sahag-Mesrob Armenian Christian School*, 188 Cal. App. 4th 851, 854, 116 Cal. Rptr. 3d 61, 260 Ed. Law Rep. 893 (2d Dist. 2010), review denied, (Jan. 12, 2011).
3. *Employment Div., Dept. of Human Resources of Oregon v. Smith*, 494 U.S. 872, 110 S. Ct. 1595, 108 L. Ed. 2d 876 (1990).
4. *City of Boerne v. Flores*, 521 U.S. 507, 117 S. Ct. 2157, 138 L. Ed. 2d 624 (1997).
5. *Employment Div. Dept. of Human Resources of Ore. v. Smith, supra*, 494 U.S. at 878-882.

6. *City of Boerne v. Flores, supra*, 521 U.S at 515-516.
7. 42 U.S.C.A. §§2000cc. Consistent with its short title, RLUIPA also prohibits government from imposing a substantial burden on the religious exercise of a person residing in or confined to an institution, even if the burden results from a rule of general applicability, unless the government demonstrates that the imposition of the burden (1) is in furtherance of a compelling governmental interest, and (2) is the least restrictive means of furthering that compelling governmental interest. (42 U.S.C.A §2000cc-1.) This section of RLUIPA, which is the subject of thousands of reported cases, is outside of the scope of the Miller & Starr Real Estate Newsalert and this article.
8. RLUIPA defines "government" as all state and local governments, including branches, departments, agencies and officials thereof, and any person acting under color of State law. (42 U.S.C.A. §2000cc-5.)
9. 42 U.S.C.A. §2000cc(a)(1).
10. 42 U.S.C.A. §2000cc(b)(1).
11. 42 U.S.C.A. §2000cc(b)(2).
12. 42 U.S.C.A. §2000cc(b)(3)(A).
13. 42 U.S.C.A. §2000cc(b)(3)(B).
14. *Employment Div., Dept. of Human Resources of Oregon v. Smith*, 494 U.S. 872, 878-82, 110 S. Ct. 1595, 108 L. Ed. 2d 876 (1990). See also *International Church of Foursquare Gospel v. City of San Leandro*, 2011 WL 1518980 (9th Cir. 2011), petition for cert. filed (U.S. July 11, 2011), citing *Guru Nanak Sikh Soc. of Yuba City v. County of Sutter*, 456 F.3d 978, 987 (9th Cir. 2006).)
15. *Guru Nanak Sikh Society of Yuba City v. County of Sutter, supra*, 456 F.3d at 988.
16. Id.
17. *International Church of the Foursquare Gospel v. City of San Leandro, supra*, 2011 WL 1518980 at 7 (internal citations omitted).
18. 42 U.S.C.A. §2000cc-5(5).
19. *St. John's United Church of Christ v. City of Chicago*, 502 F.3d 616 (7th Cir. 2007); *Vision Church v. Village of Long Grove*, 468 F.3d 975 (7th Cir. 2006).
20. *Multi Denominational Ministry of Cannabis and Rastafari, Inc. v. Gonzales*, 474 F. Supp. 2d 1133 (N.D. Cal. 2007), aff'd, 365 Fed. Appx. 817 (9th Cir. 2010).
21. Pub. Resources Code, §§21000 to 21177.
22. *County of Los Angeles v. Sahag-Mesrob Armenian Christian School*, 188 Cal. App. 4th 851, 863, 116 Cal. Rptr. 3d 61, 260 Ed. Law Rep. 893 (2d Dist. 2010), review denied, (Jan. 12, 2011).
23. 42 U.S.C.A. §2000cc(a)(2).
24. *Guru Nanak Sikh Society of Yuba City v. County of Sutter, supra*, 456 F.3d at 986-87.
25. 42 U.S.C.A. §2000cc-3(e). See also *Civil Liberties for Urban Believers v. City of Chicago*, 342 F.3d 752 (7th Cir. 2003).
26. Joint Statement of Sen. Hatch and Sen. Kennedy on S. 2869, 106th Cong. 2d. sess. (2000) 146 Cong. Rec. S7776.
27. *Midrash Sephardi, Inc. v. Town of Surfside*, 366 F.3d 1214 (11th Cir. 2004); *Lighthouse Institute for Evangelism, Inc. v. City of Long Branch*, 510 F.3d 253 (3d Cir. 2007); *River of Life Kingdom Ministries v. Village of Hazel Crest, Ill.*, 611 F.3d 367 (7th Cir. 2010); *Rocky Mountain Christian Church v. Board of County Com'rs*, 613 F.3d 1229 (10th Cir. 2010), cert. denied, 131 S. Ct. 978, 178 L. Ed. 2d 750 (2011); *Third Church of Christ, Scientist, of New York City v. City of New York*, 626 F.3d 667 (2d Cir. 2010); and *Elijah Group, Inc. v. City of Leon Valley, Tex.*, 643 F.3d 419 (5th Cir. 2011).

28. *Centro Familiar Cristiano Buenas Nuevas v. City of Yuma*, 2011 WL 2685288 (9th Cir. 2011).

    ✦ Comment: While a California state court was faced with such a claim, it expressly stated that it was not required to decide which standard to apply in analyzing the "on equal terms" claim. The court held that under any standard there was not violation of the Act.

    County of Los Angeles v. Sahag-Mesrob Armenian Christian School, 188 Cal. App. 4th 851, 864, 116 Cal. Rptr. 3d 61, 260 Ed. Law Rep. 893 (2d Dist. 2010), review denied, (Jan. 12, 2011).
29. 42 U.S.C.A. §2000cc(b).
30. *Centro Familiar Cristiano Buenas Nuevas v. City of Yuma, supra*, 2011 WL 2685288 at 4.
31. *Centro Familiar Cristiano Buenas Nuevas v. City of Yuma, supra*, 2011 WL 2685288 at 6.
32. *Id.*
33. *Centro Familiar Cristiano Buenas Nuevas v. City of Yuma, supra*, 2011 WL 2685288 at 5. The court offered the example of legitimately treating tall people differently when choosing a basketball team versus picking a jury.
34. *Centro Familiar Cristiano Buenas Nuevas v. City of Yuma, supra*, 2011 WL 2685288 at 6.
35. See footnote 25 of opinion, identifying issue.
36. *Midrash Sephardi, Inc. v. Town of Surfside*, 366 F.3d 1214 (11th Cir.2004).
37. *Sossamon v. Texas*, 131 S. Ct. 1651, 1658-59, 179 L. Ed. 2d 700 (2011).
38. *Centro Familiar Cristiano Buenas Nuevas v. City of Yuma, supra*, 2011 WL 2685288 at 3.
39. *International Church of Foursquare Gospel v. City of San Leandro*, 2011 WL 1518980 (9th Cir. 2011), petition for cert. filed (U.S. July 11, 2011).
40. *Id.* at 1.
41. *Id*. at 6 (quoting *Guru Nanak Sikh Soc. of Yuba City v. County of Sutter*, 456 F.3d 978, 987 (9th Cir. 2006).)
42. *Id*. at 7.
43. *Id.* at 6.
44. *Id.* at 10.
45. *Id*. at 9.
46. *Id.* at 12.
47. *County of Los Angeles v. Sahag-Mesrob Armenian Christian School*, 188 Cal. App. 4th 851, 116 Cal. Rptr. 3d 61, 260 Ed. Law Rep. 893 (2d Dist. 2010), review denied, (Jan. 12, 2011).
48. *Id.* at 854.
49. *Id.*
50. *Id.* at 854-55.
51. *Id.* at 858.
52. *Id.* at 861.
53. *County of Los Angeles v. Sahag-Mesrob Armenian Christian School, supra*, 188 Cal. App. 4th at 861.
54. *Id.* at 863.
55. *Id.*
56. *Id.*
57. *Id.* at 864.
58. *Id.*
59. *Madain v. City of Stanton*, 185 Cal. App. 4th 1277, 1290, 111 Cal. Rptr. 3d 447 (4th Dist. 2010).
60. *Id.*

61. *Id*. at 1279.
62. *Id.* at 1291.
63. *Id* at 1292.
64. *Id.*
65. The Garden Grove Journal, Brittany Hanson, September 15, 2010 "Adult Use Controversy Flares Again in Stanton."
66. *Madain v. City of Stanton, supra*, 185 Cal. App. 4th at 1290.
67. Garden Grove Journal Article, supra, note 65 (hereinafter cited as "Garden Grove Journal Article").
68. Orange County Register, Mark Eades, February 23, 2011 "Stanton reluctantly approves strip club."
69. *Madain v. City of Stanton, supra*, 185 Cal.App.4th at 1291 (concurring opinion).

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