



“It created the opportunity for us to prepare a specific law that required cities to treat churches equally as other assembly uses and to create a provision that said every municipality must have a zone where churches are freely allowed.”

Recalling RLUIPA

“**R**eligious freedom is a bedrock principle in our nation,” said former Senator Edward Kennedy to Congress on July 13, 2000. These words were spoken less than a month before the Religious Land Use and Institutionalized Persons Act was passed before both the United States Senate and House of Representatives in a unanimous vote. Six weeks later President Clinton signed the bill creating a new federal law.

The Religious Land Use and Institutionalized Persons Act states that having a place to meet for worship is an integral part of the exercise of religious freedom. The idea that owning property is essential to practicing one’s faith may seem obvious, simply a clause to the First Amendment right for religious assembly, but until 2000 no legislation supported the theoretical concept of religious freedom and practical implications of land use. This meant the courts were widely divided over whether the right to use a building for worship was a constitutional right.

The only statutory protection churches and religious organizations had against municipalities and exclusionary codes prone to zone them out of a specific city was the Religious Freedom Restoration Act, often considered to be a vague statement supporting religious groups. In 1997, Religious Freedom Restoration Act was struck down by the Supreme Court in *Boerne v. Flores* leaving religious organizations and congregations without federal protection for the use of land to practice their faith.

Without protection

But what seemed to be a devastating blow to religious organizations and congregations became a chance for lawmakers to bring greater religious protection to churches nationwide.

“It created the opportunity for us to prepare a specific law that required cities to treat churches equally as other assembly uses and to create a provision that said every municipality must have a zone where churches are freely allowed,” explained attorney John Mauck.

MAUCK & BAKER, LLC



After the Supreme Court overturning the Religious Freedom Restoration Act, lawyers and religious leaders gathered together in the fall of 1997 to begin the process of creating a more comprehensive law to protect congregations and religious groups from being zoned out of their cities. With Mauck's years of experience in real estate and church zoning disputes, his land use knowledge was crucial in drafting the bill. Mauck suggested the law include equal treatment for churches and inclusion in municipalities' zoning codes, moving beyond RFRA's general statement of religious liberty. Doug Laycock, currently professor of law at the University of Virginia wrote the bill, called the Religious Liberty Protection Act. The bill went before the House of Representatives, and advocates for the bill presented testimonies before the House of Representatives subcommittee in early 1998.

In March, Mauck testified before the Subcommittee on the Constitution of the House Judiciary Committee, sharing his experience as a zoning attorney for churches. Mauck shared examples of religious land use restrictions in Chicago including the city zoning churches out of downtown and extreme re-zoning taking place to keep churches out of certain parts of the city.

"These laws can be abused...in approximately half of all city ordinances that I have read...approximately half of the ordinances I see do not have any zone where a church can freely go," Mauck stated before the subcommittee on the Constitution of the House Judiciary Committee.

After the hearings in 1998, the bill went up for a vote in the House the following summer and a 306-118 vote from the House put the Religious Liberty Protection Act into a perfect position to go before the Senate.