

INSTRUCTION NO. -9-

In order for Rocky Mountain Christian Church to prevail on its claim that the Board of County Commissioners violated the "equal terms" provision of RLUIPA, Rocky Mountain Christian Church must establish each and all of the following four (4) essential elements by a preponderance of the evidence:

1. The Board of County Commissioners applied or implemented a "land use regulation";
2. in a manner that treated a religious "assembly or institution";
3. on "less than equal terms";
4. with a nonreligious "assembly or institution."

A "land use regulation" is a zoning or landmarking law, or the application or implementation of such a law, that limits or restricts a plaintiff's use or development of its land (including a structure on land).

An "assembly" is a group of persons organized and united for some common purpose.

An "institution" is an established organization or corporation.

"Less than equal terms" means that the Board of County Commissioners treated Rocky Mountain Christian Church less favorably in processing, determining, and deciding the 2004 special use application of the Rocky Mountain Christian Church than the Board of County Commissioners treated a similarly situated nonreligious assembly or institution.

The parties stipulate that Rocky Mountain Christian Church is a religious assembly or institution, as that term is used in essential element number two (2.),

above.

The parties stipulate that Rocky Mountain Christian Church is subject to a land use regulation, as that term is used in essential element number one (1.), above.

If after considering all the evidence you find that Rocky Mountain Christian Church has proven each and all of these four (4) essential elements by a preponderance of the evidence, then your verdict on this claim must be for Rocky Mountain Christian Church, and you should so state on Verdict Form A, Question No. 1.

If after considering all the evidence you find that Rocky Mountain Christian Church has failed to prove any one or more of these four (4) essential elements by a preponderance of the evidence, then your verdict must be for the Board of County Commissioners on this claim, and you should so state on Verdict Form A, Question No. 1.

INSTRUCTION NO. -10-

In order for Rocky Mountain Christian Church to prevail on its claim that the Board of County Commissioners violated the "discrimination on the basis of religion" provision of RLUIPA, Rocky Mountain Christian Church must establish each and all of the following five (5) essential elements by a preponderance of the evidence:

1. the Rocky Mountain Christian Church is an "assembly or institution";
2. the Board of County Commissioners applied or implemented a "land use regulation";
3. that discriminated against;
4. the Rocky Mountain Christian Church;
5. on the basis of religion.

An "assembly" is a group of persons organized and united for some common purpose.

An "institution" is an established organization or corporation.

A "land use regulation" is a zoning or landmarking law, or the application of such a law, that limits or restricts a plaintiff's use or development of its land (including a structure on land).

The parties stipulate that plaintiff Rocky Mountain Christian Church is a religious assembly or institution, as that term is used in essential element number one (1.), above.

The parties stipulate that Rocky Mountain Christian Church is subject to a land use regulation, as that term is used in essential element number two (2.), above.

If after considering all the evidence you find that Rocky Mountain Christian Church has proven each and all of these five (5) essential elements by a preponderance of the evidence, then your verdict on this claim must be for Rocky Mountain Christian Church, and you should so state on Verdict Form A, Question No. 2.

If after considering all the evidence you find that Rocky Mountain Christian Church has failed to prove any one or more of these five (5) essential elements by a preponderance of the evidence, then your verdict must be for Board of County Commissioners on this claim, and you should so state on Verdict Form A, Question No. 2.

INSTRUCTION NO. -11-

In order for Rocky Mountain Christian Church to prevail on its claim that the Board of County Commissioners violated the "substantial burden" provision of RLUIPA, Rocky Mountain Christian Church must establish each and all of the following four (4) essential elements by a preponderance of the evidence:

1. the Board of County Commissioners applied or implemented a "land use regulation";
2. that imposes a "substantial burden";
3. on the "sincere" "religious exercise";
4. of Rocky Mountain Christian Church.

A "land use regulation" is a zoning or landmarking law, or the application or implementation of such a law, that limits or restricts a plaintiff's use or development of its land (including a structure on land).

In its application or implementation, a land use regulation imposes a "substantial burden" on the exercise of religion if the regulation: 1) significantly inhibits or constrains conduct or expression that manifests some tenet of the religious belief of Rocky Mountain Christian Church; or 2) meaningfully curtails the ability of Rocky Mountain Christian Church to express adherence to its faith; or 3) denies Rocky Mountain Christian Church reasonable opportunities to engage in activities that express or embody one or more of its sincerely held religious beliefs; or 4) compels action or expression by Rocky Mountain Christian Church that is contrary to a sincerely held religious belief. Mere inconvenience to the exercise of religion is insufficient.

"Religious exercise," for the purpose a RLUIPA claim, means any exercise of religion, whether or not compelled by, or central to, a system of religious belief.

"Religious exercise," for the purpose a RLUIPA claim, includes also the use, building, or conversion of real property for the purpose of religious exercise by a person or entity that uses or intends to use the property for that purpose.

An exercise of religion is "sincere" if it is based on a belief that is religious in nature and is truly held.

The parties have stipulated that the Board of County Commissioners applied or implemented a land use regulation, as that term is used in essential element number one (1.), above.

If after considering all the evidence you find that Rocky Mountain Christian Church has proven each and all of these four (4) essential elements by a preponderance of the evidence, then your verdict on this claim must be for Rocky Mountain Christian Church, and you should so state on Verdict Form A, Question No. 3.

If after considering all the evidence you find that Rocky Mountain Christian Church has failed to prove any one or more of these four (4) essential elements by a preponderance of the evidence, then your verdict must be for the Board of County Commissioners on this claim, and you should so state on Verdict Form A, Question No. 3.

INSTRUCTION NO. -12-

In order for Rocky Mountain Christian Church to prevail on its claim that the Board of County Commissioners violated the "unreasonable limitation" provision of RLUIPA, Rocky Mountain Christian Church must establish each and all of the following three (3) essential elements by a preponderance of the evidence:

1. the Board of County Commissioners applied or implemented a "land use regulation";
2. that "unreasonably limits";
3. religious "assemblies," "institutions," or "structures" within Boulder County.

A "land use regulation" is a zoning or landmarking law, or the application of such a law, that limits or restricts a plaintiff's use or development of its land (including a structure on land).

A land use regulation "unreasonably limits" if the regulation, as applied or implemented, has the effect of depriving both the Rocky Mountain Christian Church and other religious institutions or assemblies of reasonable opportunities to practice their religion, including the use and construction of structures, within Boulder County. You may find that the land use regulation, as applied or implemented, imposes unreasonable limits even though religious assemblies are not totally excluded from Boulder County.

An "assembly" is a group of persons organized and united for some common purpose.

An "institution" is an established organization or corporation.

A "structure" is something that is constructed, such as a building.

The parties stipulate that the Board of County Commissioners applied or implemented a land use regulation, as that term is used in essential element number one (1.), above.

If after considering all the evidence you find that Rocky Mountain Christian Church has proven each and all of these three (3) essential elements by a preponderance of the evidence, then your verdict on this claim must be for Rocky Mountain Christian Church, and you should so state on Verdict Form A, Question No. 4.

If after considering all the evidence you find that Rocky Mountain Christian Church has failed to prove any one or more of these three (3) essential elements by a preponderance of the evidence, then your verdict must be for the Board of County Commissioners on this claim, and you should so state on Verdict Form A, Question No. 4.