

**Local Governments and Faith Communities:
A Complex Network of Shared and Competing Interests
Statement from Faith Community Advisory Council's
Religious Land Use Working Group**

The relationship between local governments and faith communities is a complex network of shared and competing interests. In some areas they are natural allies, while in other areas they are natural competitors, while in still other areas they are a little of both.

In promoting the general welfare of the community, they are natural allies. Both local governments and faith communities are called to serve the poor in their midst: feeding the hungry, clothing the needy, and housing the homeless. Both are called to promote civility, prevent violence, and resolve conflict. Both are called to care for creation: balancing the needs of human commerce and the health of the natural world.

In tax policy, they are natural competitors. In order to exist, provide basic services, and carry out their responsibilities to their communities, local governments rely primarily on property tax revenue. Meanwhile, by virtue of long-standing social contract, precisely because of the services they naturally provide the communities in which they operate, and to promote the First Amendment right of the free exercise of religion, faith communities are given tax-exempt status that extends to the buildings in which they assemble for worship, and the real property on which they gather for a broad spectrum of religious activities. For most faith communities, given the fact that they rely for their funding on the uncompelled generosity of their members, the lack of tax exempt status, particularly on real property, would jeopardize their ability to exist, let alone grow number, maintain their ability to expand their membership, and provide services to the surrounding community. When it comes to tax policy, the vested interests of local government and faith communities are in direct opposition: the more faith communities established in any locality, the less property is available for taxation, the more property is kept taxable in any locality this less room there is for faith communities. Local governments are under constant pressure to find ways to place more restrictive interpretations on what constitutes religious use for initial religious-use property tax exemption and to find ways to reduce or eliminate religious-use property tax exemptions on currently non-taxed properties

In land use policy, they are a little of both. Local governments and faith communities are allies in some aspects of land use policy. Faith communities often support land use planning and zoning that maintain green areas, set aside agricultural and forest protection zones, and promote reforestation. They also support building construction and occupancy regulations that handicapped accessible and keep people safe. It is the manner in which in which local governments implement land use policy that frequently – and often inadvertently – turns the relationship between them and their local faith communities adversarial. Afforestation requirements (in which new forested areas are must be planted with new development to make up for forested areas previous lost to older development), especially when done in an all-or-nothing manner, may constitute an insurmountable burden for many smaller congregations. Zoning decisions may be used to limit where faith communities may locate, resulting in a higher percentage of faith communities operating out of rented space, thus maintaining more taxable property.

Addressing Local Government's Competitive Advantage over Faith Communities: The Federal Religious Land Use and Institutionalized Persons Act. Despite the constitutional protection given Freedom of Religion, when the interests of local governments and the interests of faith communities are at odds, because of the difference in power and resources, faith communities are generally at a competitive disadvantage, at least in the short-term. Having neither the staff, the stamina, the financial resources, nor the predisposition to pursue multi-year legal battles, most faith communities are forced by their circumstances to capitulate long before their cases rise to the judicial level at which they would receive a favorable hearing (the vast majority of federal court hearings on religious land use are settled in favor of faith communities). Either way, the end result is that the relationship between the local government and their faith communities lies in tatters. It was to address precisely this problem that Congress passed the Federal Religious Land Use and Institutionalized Persons Act of 2000, which forbade local governments from placing undue burden on faith communities via their land use policies and practices without demonstrating a compelling public interest, and that maintaining their property tax base could not be considered a compelling interest under the statute.