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law. The City appealed and Lone Star cross-appealed the court's finding of constitutionally sufficient notice.

The U.S. Court of Appeals for the Ninth Circuit affirmed the district court's rejection of Lone Star's constitutional notice claim, but reversed its grant of summary judgment on the invalid-ordinance claim. On the preemption argument, the court found the "claim [was] premised on an untenable notion of due process. It is a tenet of our federal system that state constitutions are not taken up into 14th Amendment such that a federal court may strike down a statute as invalid. … It is likewise axiomatic for the purposes of the Supremacy Clause that the constitutionality of local ordinances [be] analyzed the same way as that of statewide laws." Addressing the inadequate notice claim, the court held that, although due process generally required that notice be given before the government seized property, there were exceptions to that rule. Notice need not be given prior to a seizure when the interest at stake was small, relative to the burden that providing notice would impose. Here, Lone Star was not using the trailers for transportation but for advertising, and this use created a lesser interest than had the trailers served a transportation purpose. In addition, Lone Star was a chronic offender, lessening the risk of an erroneous deprivation. The City had an interest in preventing the public nuisance caused by Lone Star parking its trailers for extended periods in residential neighborhoods. *Lone Star Security & Video, Inc., v. City of Los Angeles*, 584 F. 3d 1232 (9th Cir. 2009)

Land Use
RLUIPA

Due to its growing congregation, the River of Life Kingdom Ministries ("the Church") wanted to upgrade from its existing location, a rented warehouse in Chicago, to a property it planned to purchase in the Village of Hazel Crest. However, by the time the Church entered into negotiations with the seller, the Village had adopted certain zoning ordinances and a Tax Increment Financing (TIF) plan to be applied to certain land, including the land desired by the Church. The ordinances permitted the following uses of land: general commercial/retail, gas stations, hotels, taverns, offices and meeting halls. The Village later amended the ordinances and removed meeting halls and other non-commercial institutions from its list of permitted uses. After the Church purchased the land and applied for special permission to use the property, which the Village denied, the Church filed a lawsuit. It alleged, *inter alia*, that the zoning ordinances violated the Equal Terms provision under the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA). The Equal Terms provision states that "[n]o government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a non-religious assembly or institution."

The U.S. Court of Appeals for the Seventh Circuit affirmed the district court's denial of a preliminary injunction. In coming to its decision, the court was persuaded by the Third Circuit Court of Appeals' decision in *Lighthouse Institute for Evangelism, Inc. v. City of Long Branch* (in order to find a violation of the Equal Terms provision, a plaintiff was required to identify a non-religious institution that was treated better than a similarly-situated religious property with regards to the regulatory purposes of the land use regulation). This position, adopted by the Seventh Circuit, preserved a local government's ability to enact neutral laws of general applicability. Here, the Church argued that some permitted non-religious uses (such health clubs, hotels and salons) could be categorized as "assembly" uses and, since such business uses were allowed, the Church should be allowed to build in the area as well. The Seventh Circuit disagreed, stating that the "permitted entities [were] all *commercial* in nature, while churches, meeting halls, community centers, and schools (which [were] all uses excluded from the ordinance after the amendment) [were] not. A locality seeking to create a commercial area should be able to exclude non-commercial uses that do not contribute to its goal [of creating a tax revenue-generating commercial district] without violating RLUIPA." *River of Life Kingdom Ministries v. Village of Hazel Crest*, 585 F. 3d 364 (7th Cir. 2009).

Litigation and Liability
Negligence and the Duty To Preserve Evidence

Is the victim of a crime entitled to an award of damages for the negligent infliction of emotional distress due to the wrongful disposal of evidence collected during an ongoing criminal investigation? Dennis had been raped 20 years previously by an unknown man. Evidence was collected as part of that investigation, but her assailant was never caught. In 2003, Dennis saw a television program about a serial rapist and killer, and was convinced that he was her attacker as well. She contacted the sheriff's office to see if they would reexamine the evidence in her case. However, that evidence had been destroyed in 1995 pursuant to a court order, as it had been mislabeled as the evidence of a crime that could no longer be prosecuted and was, therefore, considered abandoned. Dennis brought an action against the sheriff's office for the negligent infliction of mental anguish and emotional distress resulting from the incorrect handling and the disposal of the evidence. She made no allegations of intentional destruction, but alleged that the actions of the sheriff's office were reckless, wanton, and grossly negligent. The sheriff's office admitted that a mistake was made but denied that it owed any special duty to preserve evidence, obtained during the investigation of a particular crime, for the benefit of the victim. After a bench trial, the trial court ruled that the sheriff's office was liable for the negligent infliction of emotional distress, finding that it had breached its duty to retain and preserve the evidence of the plaintiff's aggravated rape, and that the breach had caused the plaintiff's damages.

Addressing a matter of first impression, the Court of Appeal of Louisiana reversed. The sheriff's office was charged with a general, not personal, duty to preserve the peace and apprehend criminal offenders. There