

Texas Appellate Court Hears Argument Over City's Unlawful Attempt to Skirt Due Process, Tax Laws

First Liberty Institute defends three churches on appeal against Texas city's unfair water fee scheme

Austin, TX—Today, First Liberty Institute and its network attorneys with the law firm Baker Botts defended three churches on appeal before the Texas Third District Court of Appeals in Austin against efforts by the City of Magnolia to impose a water fee scheme on tax-exempt churches without due process. The churches represented are Magnolia Bible Church, Magnolia's First Baptist Church, and Believers Fellowship.

“Cities in Texas at least have to give due process to churches before imposing their water fee scheme,” said Aaron Streett, First Liberty network attorney and partner with Baker Botts. “Due process, and basic fairness, prevent cities like Magnolia from excluding churches they know object to their water fee scheme from participating in legal proceedings attempting to validate that scheme.”

In March of 2018 the City of Magnolia, Texas increased the water and wastewater fees of its churches to significantly higher rates than that of commercial businesses. As Magnolia's city administrator Paul Mendes said, the water fee scheme, “would allow the city to collect funds from these entities *in place of taxes or other fees.*” In one case, a church's water bill increased 178% for similar water usage.

Unbeknownst to the churches, as they continued to challenge the water fee scheme locally, in November of 2018, city officials quietly sought approval for Magnolia's water fee scheme several hours away from Magnolia in an Austin courtroom. Only when the churches sued Magnolia in May of 2019 did they learn that Magnolia's efforts in Austin now prevented them from challenging the water fee scheme. In response to the churches' lawsuit, Magnolia officials threatened sanctions against the pastors if they continued.

“There was no question that Magnolia's city leaders knew these churches wanted to challenge the city's water fee scheme,” said Jeremy Dys, Special Counsel for Litigation and Communications for First Liberty Institute. “The churches attended multiple public hearings, sent letters, sought a legislative fix, and even provided written notice that they were going to sue. And, still, city leaders denied these churches a fair opportunity to challenge the water fee scheme by seeking approval from a court several hours away.”

In August of 2019, attorneys with First Liberty convinced the Austin-based court that previously validated Magnolia's water fee scheme to re-open the proceedings concerning the legitimacy of the rate increase, finding that city officials should have known that the

churches were an interested party, and failed to involve them in the rate increase discussion.

The Texas Third Court of Appeals in Austin heard oral argument Wednesday over Magnolia's appeal.

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About First Liberty Institute

[First Liberty Institute](#) is the largest legal organization in the nation dedicated exclusively to defending religious freedom for all Americans.

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