



INSTITUTE FOR JUSTICE

October 12, 2026

VIA EMAIL

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Re: Cease-and-Desist Letter to 317 S. Church Street

Dear Chair and Members of the Board of Zoning Adjustment, City Attorney Boyle, Ms. Marohnic, and Officer Adams:

Our names are Erica Smith Ewing and Griffin Brunk, attorneys at the Institute for Justice. We write regarding the City of Grapevine's September 22nd cease-and-desist letter effectively ordering Ruby Brock to stop teaching her students at the small museum building at 317 S. Church Street. Ms. Brock was using this building as the home base for her learning pod, the Westmoreland Institute for Lifelong Learning (WILL), where she helps a small group of children with their reading and social skills. The City stated that WILL needed a new certificate of occupancy to operate at that building, and that the property owner must ensure that Ms. Brock and her students immediately leave until WILL obtained one.

Concerningly, the City also stated that in order to obtain a new certificate of occupancy, the property would have to be rezoned, obtain a conditional use permit, and comply with a whole host of other requirements—taking many months and easily costing tens of thousands of dollars. WILL immediately complied with the letter and stopped using the building, leaving them without a home for their learning. This is completely unjust.

It is also illegal. The City’s order violates the Texas Learning Pod Protection Act, as explained below. *See* Tex. Educ. Code §§ 27.001 *et seq.* The City’s attempt to impose these tremendous burdens on WILL—burdens that were designed for large institutional schools, and not tiny learning pods—is also very likely unconstitutional. We therefore request that the City retract the cease-and-desist letter and allow WILL to resume using the Church Street building immediately.

About the Institute for Justice

The Institute for Justice (IJ) is a national nonprofit law firm that has fought to protect individuals’ constitutional rights for over 35 years. We frequently litigate our cases at the U.S. Supreme Court, as well as at state courts across the country.

One of our areas of expertise is educational choice and educational entrepreneurship. We have litigated against multiple state and local governments for infringing on parents’ right to direct their children’s education, including in landmark cases like *Zelman v. Simmons-Harris*,¹ *Espinoza v. Montana Department of Revenue*,² and *Carson v. Makin*.³ More recently, we have been suing to protect educators’ right to pursue their vocation.⁴ We have a particular interest in preventing local governments from unjustly shutting down small, non-traditional educational organizations like learning pods and microschools.⁵

We have also helped dozens of cities and states reform their zoning and education codes. We are always happy to help local governments reform their laws through consultation or litigation.

About WILL and Ruby Brock

WILL is a small learning pod of fourteen students, only four of whom attend full-time; the rest attend part-time or just as an after-school program. This variety of schedules means that, at most, only seven students are in attendance at any given time. The students

¹ 536 U.S. 639 (2002).

² 591 U.S. 464 (2020)

³ 596 U.S. 767 (2022).

⁴ <https://ij.org/issues/the-education-entrepreneurship-project/#eep-litigation>.

⁵ For instance, earlier this year, we sued North Dakota to help a private school contest onerous, irrational licensing requirements and the Pennsylvania Department of Human Services to protect a hybrid school from improper categorization as a daycare. <https://ij.org/case/north-dakota-teacher-licensing/>; <https://ij.org/case/pennsylvania-hybrid-school/>.

are a mix of 3rd through 8th graders from all socioeconomic circumstances, unified in that they struggled, or continue to struggle, in public schools. Ms. Brock has therefore composed a bespoke curriculum of lessons, field trips, and outings designed to cultivate her students' literacy and social skills. Her dedication and care have inspired a deep loyalty in her students and their parents.

Historically, WILL has operated in public spaces across the city. However, Ms. Brock has always dreamt of having an actual homebase for her business. As she sought an appropriate venue for WILL, Ms. Brock consistently contacted the Grapevine Planning Office for help navigating the City's zoning regulations. This past summer, WILL partnered with the House of Shine Museum to lease one of its ancillary buildings, located at 317 S. Church Street. Ms. Brock thought she finally found a home for WILL.

Ms. Brock is a lifelong educator, dedicated to her students. In her 30 years of service, she has served as a special education teacher, principal, and dean of student affairs. Recognizing that some students struggle in a traditional education setting, she founded WILL as a learning pod, where she could tailor every lesson to her students' unique needs. However, the City's cease-and-desist letter brought her dream to a screeching stop. As shown below, the City's investigation of and demands upon WILL violate the Texas Learning Pod Protection Act (LPPA). They are also very likely unconstitutional.

The City's Illegal Cease-and-Desist Letter

Grapevine's actions violate Texas law in three ways. First, and most simply, the City has failed to recognize WILL as a learning pod. Because it is a learning pod, it is protected by the Texas Learning Pod Protection Act, which is a statute designed to protect small education groups from overregulation by local governments.

Taking it on its own terms, the LPPA easily covers WILL. *See* Tex. Educ. Code § 27.001(2). The Act defines learning pod as “a group of children who, based on the voluntary association of the children's parents, meet together at various times and places to participate in or enhance the children's primary or secondary academic studies, including participation in an activity or service provided to the children in exchange for payment.” *Id.*

WILL meets that definition. First, its fourteen students were “voluntar[ily]” enrolled by their parents in order to “enhance” their other studies, whether from homeschool curricula or Grapevine's public schools. The students go wherever WILL's lessons take them that day, whether on a field trip, a skills-oriented outing, or somewhere quiet for the day's lessons; they thus meet in “various times and places to participate in . . . academic studies.” *Id.* In return for helping these students grow and thrive, WILL permissibly receives payment. *Id.* Despite clearly fitting the LPPA's definition of a learning pod, to date, no one from the City has been able to articulate why WILL does not qualify as one, nor why the City has unilaterally disqualified WILL from the LPPA's protections. In fact, Ms. Brock

has repeatedly asked the Planning Department why it does not consider WILL to be a learning pod or how the City has interpreted the LPPA, but has never received a response.

Second, because WILL is a learning pod, the LPPA exempts WILL from needing a new certificate of occupancy (including the pre-requisite rezoning, conditional-use permit, and building code requirements). Under the LPPA:

any group, building, or facility associated with or used by a learning pod is exempt from any ordinance, rule, regulation, policy, or guideline adopted by a local governmental entity that would not apply to the group, building, or facility if it was not associated with or used by a learning pod.

Tex. Educ. Code. § 27.002. It is our understanding that 317 S. Church Street already possesses a valid certificate of occupancy for use by the House of Shine. Therefore, the city's stated need for a new certificate arises from the change in use from museum to what the Planning Department has termed an "educational institution." Since WILL is a learning pod (not "an educational institution"), these requirements are squarely foreclosed by the LPPA. "[B]uilding[s]" used by learning pods are exempt from "*any* rule, regulation, policy, or guideline" which would not apply if building did not house a learning pod; put differently, as long as it is legal for the museum to use 317 S. Church Street, it is legal for WILL to use it. *See* Tex. Educ. Code. § 27.002 (emphasis added). Therefore, WILL should not be required to seek a new certificate of occupancy, re-zoning, conditional-use permit, or other requirements, before reopening its doors on Church Street.

Finally, zoning authorities' inspection and investigation of 317 S. Church Street was illegal. The LPPA states that:

An employee, contractor, or agent of a school district or other local governmental entity may not initiate or conduct a site inspection of, investigation of, or visit to a location in which a learning pod meets if the district or entity would not have initiated or conducted the inspection, investigation, or visit if the learning pod did not meet at that location.

Tex. Educ. Code § 27.002(b). WILL applied for a certificate of occupancy for its "microschool/learning pod" at 317 S. Church Street, but was rejected.⁶ On September 11, 2026, Lindsey Flores of the City's Planning Office emailed WILL that "It has come to our attention that the property at 317 S. Church Street may be currently occupied by WILL without a certificate of occupancy (C/O) and without having gone to a public hearing for a rezone and conditional use application." Then, according to the cease-and-desist letter itself, zoning authorities "inspected" 317 S. Church Street on September 14, and concluded "[a]s a

⁶ WILL later opened at the annex on the understanding it could operate under the House of Shine's existing certificate of occupancy.

result of this investigation, it has come to our attention that this property needs a Certificate of Occupancy for this business to operate.”

The investigation, inspection and subsequent cease-and-desist letter thus violate the LPPA. Prior to the September 14th inspection and investigation, the City knew (or should have known) that (1) WILL is a learning pod; and (2) WILL was using the annex for its lessons. Nevertheless, and despite the LPPA’s clear prohibition, the City still investigated WILL and inspected the property. In other words, it “initiated or conducted [an] inspection, investigation, [and] visit” which would not have occurred if WILL did not meet at that location. That is exactly the sort of behavior the LPPA forbids, and the resulting cease-and-desist is therefore invalid.

Serious Constitutional Concerns

Finally, enforcing the cease-and-desist letter raises multiple constitutional issues under both the U.S. and Texas Constitutions. First, it would offend equal protection to saddle WILL with nonsensical requirements (such as re-zoning, conditional use permit, fire suppression systems, etc.) when nearby and comparable institutions are not so burdened, including museums and art schools. Second, these requirements would also offend substantive due process. Requiring extensive zoning permits, food safety inspections and fire suppression systems, makes sense for large institutions like a public school; they are irrational for small learning pods like WILL. Furthermore, the City’s order interferes with Grapevine parents’ rights under the state and federal constitutions to make decisions concerning their children’s education.⁷ It also infringes upon Ms. Brock’s right to pursue her calling without undue burdens.⁸

All told, the City’s actions against WILL violate state and constitutional law.

Conclusion

Respectfully, we ask that the City (1) recognize WILL as a learning pod under Texas Law and (2) recognize that WILL does not need a new certificate of occupancy for its building, thus retracting its cease-and-desist letter and allowing it to immediately resume operations at that space. Not only will this bring Grapevine back into step with state and constitutional law, it will also allow WILL’s students the chance to learn and grow in an environment attentive to their needs.

⁷ See Tex. Const. art. I, § 34; *Pierce v. Soc’y of Sisters*, 268 U.S. 510, 534-35 (1925) (recognizing “the liberty of parents and guardians to direct the upbringing and education of [their] children.”).

⁸ See *Meyer v. Nebraska*, 262 U.S. 390, 400 (1923) (invalidating a Nebraska law which infringed on teachers “right . . . to teach”); *Patel v. Tex. Dep’t of Licensing & Regul.*, 469 S.W.3d 69, 87 (Tex. 2015) (acknowledging an implied right to pursue a profession under Article I, Section 19 of the Texas Constitution).

We would be happy to discuss this with you further. If you have any questions, we can be reached at esmith@ij.org and gbrunk@ij.org.

Sincerely,

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&

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