

# **State comptroller backpedals on tax exemption decision\_53104**

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**By Ken Camp**

*Managing Editor*

DENISON-Texas Comptroller Carole Keeton Strayhorn abruptly reversed course after her office's denial of tax-exempt status to a North Texas church because of its beliefs-or lack of them-attracted media attention.

About three years ago, the comptroller's office rejected tax exemption for Red River Unitarian Universalist Church because it does not have a clearly defined system of belief in God, gods or a higher power.

But less than a week after the decision became public, Strayhorn issued a statement that she had instructed her general counsel to review the "earlier staff decision" regarding the Denison church.

Attorney Jesse Ancira wrote to Dan Althoff, president of the congregation's board of trustees, indicating Strayhorn had asked him to review the file on the church's application for tax exemption.

"After reviewing the submitted application, file material, as well as

correspondence between yourself and staff from our tax policy division, it is my opinion that the Red River Unitarian Universalist Church is an organization created for religious purposes and should be granted the requested tax exemption," he wrote.

Althoff said his congregation was "gratified" the controller's office revisited the application for tax exemption.

But the question of whether the "God, gods or a higher power" criteria remain in place was unclear, and Strayhorn's office did not respond to requests for clarification.

The state office's initial willingness to set up belief in a Supreme Being or beings as the criterion for being a tax-exempt church troubled some religious liberty advocates.

"Religious liberty is always threatened when state officials attempt to define religion—all the more when they do so narrowly. They should always err on the side of inclusion in close cases," said Brent Walker, executive director of the Baptist Joint Committee on Public Affairs in Washington, D.C.

The Supreme Court has called attempts to define religion "a dangerous and difficult task," and the court has ruled religion does not have to be reasonable or logical—much less orthodox—to be protected by the First Amendment, he noted.

"Any purported standard that requires a formal creed or belief in God leaves a lot of faith traditions out," Walker said.

Phil Strickland, director of the Baptist General Convention of Texas Christian Life Commission, agreed. He noted many Asian world religions such as Buddhism, Hinduism and Taoism, as well as some Native American religions, essentially are non-theistic.

The Unitarian Universalist Association developed historically from two related strands of liberal Christianity-Unitarians, who believed in the unity of God rather than the Trinity, and Universalists, who believed in universal salvation of all people. Modern Unitarian Universalists look to a variety of world religions and secular sources for inspiration.

The Red River Unitarian Universalists' website notes: "Unitarian Universalism is a free and open faith which does not demand that its members subscribe to any particular religious creed or doctrine. Instead, it emphasizes the right and responsibility of each individual to search for his or her own religious truth and meaning."

The Denison church describes itself as a place that "provides religious seekers in North Texas and southern Oklahoma with a supportive community to assist them in their personal spiritual journeys."

Strayhorn's office declined to answer questions about the decision, saying the only official comments were remarks by Ancira, the comptroller's top attorney.

For an organization to qualify as a religion, its members need "a belief in God or gods or a higher power," he told the Fort Worth Star-Telegram.

"We have got to apply a test and use some objective standards. We're not using the test to deny the exemptions for a particular group because we like them or don't like them," he continued.

The newspaper reported Strayhorn had denied tax-exempt status to 17 groups and granted the status to more than 1,000 since January 1999. In addition to the Denison church, other groups denied tax exemption were the North Texas Church of Freethought in Carrollton, as well as a New Age group in Bastrop and a witches' group in Copperas Cove.

In 1997, Comptroller John Sharp-Strayhorn's predecessor-denied tax-

exempt status to the Ethical Culture Fellowship of Austin. The group sued, and both a lower court and the Texas Supreme Court ruled against the state's decision.

When the court announced its decision in April regarding the Austin humanist group, Strayhorn released a public statement: "This fight is about more than one organization trying to avoid paying their fair share. It's about protecting the groups in Texas who truly deserve to be tax exempt. Otherwise, any wannabe cult who dresses up and parades down Sixth Street on Halloween will be applying for an exemption."

Ancira told the Fort Worth newspaper Strayhorn had applied a consistent standard based on principle.

"This comptroller, in particular, wants everybody on a level playing field," he said.

"The issue as a whole is: Do you want to open up a system where there can be abuse or fraud, or where any group can proclaim itself to be a religious organization and take advantage of the exception?"

Mark Westergard, former district president of the Southwestern Unitarian Universalist Conference, agreed Strayhorn "has established a policy and-for better or for worse-has applied her policy even-handedly. ... That is to say, although I do not agree with the specifics of the judgment call she made in administering the Texas tax statutes relating to the attributes an organization must have in order to qualify as a church for Texas tax purposes, she has not 'singled out' Unitarian Universalists."

Strickland expressed sympathy for the comptroller's desire to deal with "illegitimate groups that are not really interested in religion but are only interested in a tax exemption." But he suggested the state judge the legitimacy of claims for tax exemption based on whether groups have established places of worship and a history of religious practices-not on the

basis of their theology.

“When the state uses a theological criteria, then it clearly is usurping its power by trying to define good religions and bad religions. That is not the role of government,” he said.

Walker also agreed “obvious shams and clear cases of fraud” rightly can be denied tax exemption.

“But I don't see that here,” he added. “If the Unitarian Universalists—a denomination of long standing—don't qualify, then we all are in jeopardy.”

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