

# CONSTITUTIONAL ANALYSIS - UTAH LIEN LAWS - EDUCATIONAL PURPOSES ONLY

## EXECUTIVE SUMMARY

This analysis examines significant constitutional deficiencies in Utah's statutory lien enforcement framework, particularly as they relate to religious liberty protections. Utah's Self-Storage Facilities Act (Utah Code § 38-8-1 et seq.) creates a system whereby private entities exercise quasi-governmental powers without adequate constitutional safeguards. This statutory regime reveals five critical constitutional vulnerabilities:

First, Utah's lien laws permit private actors to exercise traditionally governmental functions without imposing corresponding constitutional constraints. When storage facilities utilize these statutory procedures rather than pursuing traditional contract remedies, they transform from mere private parties into "state actors" subject to constitutional limitations under the test established in *Lugar v. Edmondson Oil Co.*, 457 U.S. 922 (1982).

Second, the statutory framework contains no specific provisions accommodating religious property despite Utah's Religious Freedom Restoration Act (SB150), which explicitly prohibits substantially burdening religious exercise without a compelling governmental interest implemented through least restrictive means.

Third, the procedural protections within the statutory scheme fall demonstrably short of constitutional due process requirements, placing undue burdens on property owners to initiate costly and time-consuming court proceedings rather than requiring lien claimants to establish validity before enforcement.

Fourth, Utah's statutory framework creates an impermissible entanglement between government and religion when applied to religious organizations, delegating enforcement powers that directly impact religious practice without adequate religious liberty safeguards.

Fifth, the absence of prompt post-deprivation remedies for constitutionally protected property creates irreparable harm, especially for time-sensitive religious observances, directly contradicting the Supreme Court's recognition that "the loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury" (*Roman Catholic Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63, 67 (2020)).

These constitutional deficiencies merit serious consideration by policymakers, courts, and legal practitioners concerned with protecting fundamental rights in Utah.

*This analysis is provided for educational purposes only. As a 501(c)(3) organization, we do not advocate for specific legislative action.*

## KEY CONSTITUTIONAL DEFICIENCIES

### 1. State Action Through Statutory Delegation

Utah's Self-Storage Facilities Act delegates traditionally governmental powers of property seizure and disposal to private entities without imposing corresponding constitutional constraints. The Supreme Court established in *Lugar v. Edmondson Oil Co.*, 457 U.S. 922 (1982), that private entities become state actors when they utilize "statutory procedures" with "significant aid of state officials." The Tenth Circuit has directly applied this principle to statutory enforcement mechanisms in *Coleman v. Turpen*, 697 F.2d 1341, 1345 (10th Cir. 1982), holding that a private towing company became a state actor by "jointly participating" with state officials in property seizure pursuant to state law.

Utah's lien framework satisfies all three elements of the *Lugar* test:

1. The conduct is "fairly attributable to the state"
2. The private actor exercises "a right or privilege having its source in state authority"
3. The private actor acts in concert with the state or its agents

These statutory powers extend beyond what would be available through common-law contract remedies, transforming private commercial disputes into constitutional questions when statutory enforcement mechanisms are invoked.

### 2. Inadequate Religious Liberty Protections

Utah's Religious Freedom Restoration Act (SB150) provides that "a government entity may not substantially burden the free exercise of religion of a person" unless such burden is "essential to furthering a compelling governmental interest" and "the least restrictive means" of furthering that interest. Utah Code § 63G-31-201. However, Utah's lien statutes contain no provisions protecting religious property or providing religious accommodations.

This constitutional deficiency is particularly concerning in light of the Supreme Court's consistent holding that religious beliefs "need not be acceptable, logical, consistent, or comprehensible to others" to merit First Amendment protection. *Thomas v. Review Bd. of Indiana Employment Security Div.*, 450 U.S. 707, 714 (1981). The District of Utah recently affirmed this principle in *Singularism v. Provo City* (D. Utah, Feb. 20, 2025), holding that "for that guarantee of religious liberty to mean anything, the laws must protect unfamiliar religions equally with familiar ones, both in design and in practice."

The absence of religious accommodations in Utah's statutory lien framework creates an irreconcilable conflict with SB150's explicit protections, especially when applied to religious organizations whose property has explicitly religious significance.

### 3. Procedural Due Process Deficiencies

Utah's lien statutes contain multiple procedural deficiencies that fail to satisfy constitutional due process requirements:

- **Inadequate Pre-Deprivation Notice:** The statutory framework permits encumbrance of property rights without sufficient advance notice, violating procedural due process principles established in *Mathews v. Eldridge*, 424 U.S. 319 (1976).
- **Improper Burden Shifting:** Utah Code § 38-9-205 places the burden on property owners to petition courts for relief from wrongful liens, rather than requiring lien claimants to establish validity before recording.
- **Discretionary Rather Than Mandatory Protections:** Utah Code § 38-9-202 grants county recorders discretion to reject wrongful liens but does not require them to do so. This discretionary protection is constitutionally insufficient.

These procedural deficiencies create systematic bias against property owners and religious organizations, imposing substantial burdens on constitutional rights without adequate safeguards.

### 4. Impermissible Religious Entanglement

When applied to religious organizations, Utah's statutory lien framework creates an impermissible entanglement between government and religion. The enforcement of these provisions against religious property directly impacts religious practice without adequate religious liberty safeguards.

The Supreme Court has consistently recognized that religious organizations possess absolute autonomy over their internal governance and religious practices. In *Our Lady of Guadalupe School v. Morrissey-Berru*, 140 S. Ct. 2049, 2060 (2020), the Court held that "the Religion Clauses protect the right of churches and other religious institutions to decide matters of faith and doctrine without government intrusion."

Utah's statutory scheme, by delegating governmental powers that directly impact religious practice without religious accommodations, creates precisely the type of government entanglement with religion that the First Amendment prohibits.

### 5. Absence of Prompt Post-Deprivation Remedies

Utah's statutory framework fails to provide sufficiently expeditious remedies to prevent irreparable harm when constitutionally protected rights are at stake. This deficiency is particularly problematic for religious organizations with time-sensitive religious observances.

The Supreme Court has consistently recognized that "the loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Roman Catholic Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63, 67 (2020). Yet Utah's statutory framework provides no expedited process for religious property, creating the potential for irreparable religious harm through procedural delays.

This constitutional deficiency directly contradicts the Supreme Court's emphasis on the time-sensitive nature of religious liberty protections and the need for prompt remediation when religious exercise is substantially burdened.

## IMPLICATIONS FOR CONSTITUTIONAL RIGHTS

These five constitutional deficiencies in Utah's statutory lien framework create serious concerns regarding the protection of fundamental rights. When private entities utilize these state-created enforcement mechanisms, they effectively become state actors subject to constitutional constraints under the test established in *Lugar v. Edmondson Oil Co.*, 457 U.S. 922 (1982).

The absence of religious accommodations, despite Utah's explicit Religious Freedom Restoration Act (SB150), creates an irreconcilable conflict between statutory enforcement powers and constitutionally protected religious liberties. This conflict is particularly concerning given the Supreme Court's consistent protection of diverse and unconventional religious practices, as reaffirmed in *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014).

The procedural deficiencies in Utah's statutory framework create systematic bias against property owners and religious organizations, imposing substantial burdens on constitutional rights without adequate safeguards. This bias is particularly problematic when applied to religious organizations with time-sensitive religious observances, creating the potential for irreparable religious harm through procedural delays.

*This analysis is provided for educational purposes only. As a 501(c)(3) organization, we do not advocate for specific legislative action.*