

Chapter: Agency Management and Operations	<b>Effective Date: 12/1/16</b>
Subchapter: Interaction with the Public	
<b>Rule: Private Real Property Rights Affected by Governmental Action</b>	Page: 1 of 2
ACA: N/A	Replaces: GAP.385.8117, 12/31/96
Statutes: Gov't Code Chapter 2007	

**RULE**

(a) **Purpose.**

This rule establishes procedures for the Texas Juvenile Justice Department (TJJD) to determine if private real property rights are affected by proposed governmental action to be taken by TJJD.

(b) **Responsibility.**

The TJJD staff member proposing a governmental action is responsible for the actions described herein.

(c) **Definitions.**

Definitions pertaining to this rule are in the Private Real Property Rights Preservation Act (the Act), [Chapter 2007 of the Texas Government Code](#).

(d) **Categorical Determination.**

(1) Activities related to the following, and the programs, policies, rules, or regulations promulgated to implement them, do not affect private real property rights:

- (A) youth care and treatment;
- (B) facility operations, maintenance, and construction;
- (C) personnel management; and
- (D) purchase of goods and services.

(2) If the proposed governmental action falls within one of the above categories, further compliance with the Act is not required and a Takings Impact Assessment (TIA) must not be initiated.

(3) If the proposed governmental action does not fall within one of the above categories, TJJD must make a No Private Real Property Impact Determination to determine if a TIA is required.

(e) **No Private Real Property Impact (No PRPI) Determination.**

(1) A No PRPI Determination is made by finding the proposed governmental action does not result in a burden on private real property according to the procedures in subsection (e)(2) of this section.

(2) A No PRPI Determination is made by answering the following questions.

- (A) Will the proposed governmental action involve a physical seizure or occupation of private real property?
- (B) Will the proposed governmental action involve a regulation of private real property or of activities occurring on private real property?
- (C) Will the proposed governmental action diminish or destroy the right of a private property owner to exclude others from the property, possess it, or dispose of it?
- (D) Will the value of private real property that is the subject of the proposed governmental action be reduced by 25% or more as a result of the action?

- (3) If the answer to all four questions in subsection (e)(2) of this section is "NO," there is a No PRPI Determination and no further action is required under the Act. If the answer to any of the four questions in subsection (e)(2) of this section is "YES," a TIA is required by the Act.

(f) **TIA.**

(1) **Initiating a TIA.**

Before a TIA is initiated, the following must be determined to be true pursuant to the procedures in subsections (d) and (e) of this section:

- (A) the contemplated governmental action does not fall within the categorical determinations for which no TIA is required; and
- (B) there may be an impact on private real property interests.

(2) **Elements of the TIA.**

If the criteria in subsection (f)(1) of this section are met, TJJJD must prepare a written TIA that does the following:

- (A) describes the specific purpose of the proposed governmental action;
  - (B) identifies:
    - (i) whether and how the proposed governmental action substantially advances its stated purpose;
    - (ii) describes the burdens imposed on private real property; and
    - (iii) describes the benefits to society resulting from the proposed use of private real property; and
  - (C) explains whether engaging in the proposed governmental action will constitute a taking under the United States Constitution, the Texas Constitution, or the Act; and
  - (D) describes reasonable alternative actions that could accomplish the specified purpose and compares, evaluates, and explains:
    - (i) how an alternative action would further the specified purpose; and
    - (ii) whether an alternative action would constitute a taking.
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