

Chapter: Agency Supports and Controls	Effective Date: 7/1/24
Rule: Private Real Property Rights Affected by Governmental Action	Page: 1 of 2
Statutes: Gov't Code Chapter 2007	Replaces: GAP.385.8117, 12/1/16

(a) **Purpose.**

This policy 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, 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;
- (D) purchase of goods and services;
- (E) actions related to TJJD's regulatory function with juvenile probation departments, juvenile justice facilities, and certified individuals; and
- (F) any other actions reasonably taken to fulfill an obligation mandated by state or federal law.

(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) is 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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