

Local Regulation of Commercial Firearms Sales Upheld

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The Second Amendment to the U.S. Constitution does not prohibit cities and counties from regulating the commercial sale of firearms, so long as individuals' access to firearms is not meaningfully constrained. This ruling by an eleven-judge panel of the U.S. Ninth Circuit Court of Appeal upheld an Alameda County ordinance regulating the location of firearms retailers. RWG filed a "friend of the court" brief in support of Alameda County.

Three business partners sought to overturn a county ordinance that: 1) required firearms retailers to obtain a conditional use permit; and 2) banned new gun shops within 500 feet of schools, day care centers, liquor stores, bars, other gun stores, and residential areas. After Alameda County denied their permit application for a new gun store due to the proximity of residential areas, the partners sued. They alleged that the ordinance's distance requirements effectively prohibited new gun stores, thereby infringing on their potential customers' Second Amendment right to purchase firearms for self-defense. They also alleged that the ordinance infringed their Second Amendment right to sell firearms.

As to the first theory, the Ninth Circuit agreed with other court decisions that have concluded there is no right to purchase a firearm at a particular location, so long as gun buyers' access to purchasing a firearm is not meaningfully constrained. It observed that residents could purchase firearms at several locations throughout Alameda County, including a sporting goods store approximately 600 feet from the site of the plaintiffs' proposed location. The Ninth Circuit cautioned, however, that restrictions on a gun retailer's ability to enter the market may in other contexts infringe on the right of buyers and owners to acquire firearms.

As to the second theory, the Ninth Circuit ruled that the Second Amendment does not confer upon a proprietor a right to sell firearms. After combing the historical record, the court found that a right to sell firearms was not within the understanding of the scope of the Second Amendment around the time of its ratification in 1791.

ATTORNEYS

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PRACTICE AREAS

Municipal & Public Agency
Law

The case is ***Teixeira v. County of Alameda***. If you would like more information about local firearms regulations or how the decision may affect your agency, please contact Peter Pierce or Isra Shah.