

U.S. Supreme Court Invalidates Sign Ordinance

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A sign ordinance has been deemed unconstitutional because, like many sign ordinances, it regulated ideological signs, political signs, and temporary directional signs differently based on content. This U.S. Supreme Court ruling will affect many local sign ordinances.

In *Reed v. Town of Gilbert*, the Court considered a First Amendment challenge to a sign ordinance that identified various categories of signs based on the information conveyed and subjected each category to special restrictions. The ordinance generally prohibited the display of outdoor signs without a permit, but it contained exemptions for 23 categories of signs. Three of the exemptions were for ideological signs, political signs, and temporary directional signs. Each category had its own set of restrictions on sign size, number, location, and display period.

The challenge was filed by a small church that owned no building and held its services at different locations. The case arose when a town code enforcement officer twice cited the church for posting temporary directional signs that displayed the church's name along with the time and location of the upcoming service.

The Court ruled that the ordinance violated the First Amendment by imposing content-based regulations that were not narrowly-tailored to achieve the town's interests in aesthetics and traffic safety. The opinion reasoned that the strict limits on temporary directional signs were invalid because such signs are not a greater eyesore, and do not pose a greater threat to safety, than ideological or political signs.

The *Town of Gilbert* case does not preclude public agencies from regulating signs on a content-neutral basis. Indeed, the Court emphasized that aesthetic and safety concerns can be addressed by regulating sign aspects such as size, building materials, lighting, moving parts, and portability. The Court also stressed that public agencies "may go a long way toward entirely forbidding" posting of signs on public property. Thus, each public agency should review its sign ordinance to ensure that restrictions are imposed on a content-neutral basis. Many local sign ordinances contain the types of content-based categories the Court has deemed to be unconstitutional.

For more information on the *Reed v. Town of Gilbert* case or any First Amendment matter, please contact Terence Boga or any of the members of the Firm's Public Law Department.