”Beach Yoga” in a Public Park is Protected by the First Amendment

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ATTORNEYS

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An ordinance banning unpermitted yoga classes in public parks is likely unconstitutional under the First Amendment because yoga is an expressive activity.

In ***Hubbard v. City of San Diego***, the Ninth Circuit ruled that teaching yoga is a form of protected speech because it conveys expressive ideas and movement. Two yoga instructors challenged a San Diego ordinance after City park rangers issued them citations while they taught in a shoreline park without a permit. The ordinance classified yoga instruction as non-expressive and prohibited teaching yoga to groups of four or more in the City’s shoreline parks and beaches without a permit.

The court emphasized that parks and beaches are traditional public forums, which enjoy strong free speech protections under the First Amendment. The court found the ordinance was a content-based restriction because it banned yoga but allowed similar activities, like tai chi. While local governments may impose reasonable time, place, and manner regulations on speech, content-based regulations must survive a higher standard known as strict scrutiny. The ordinance failed this standard.

While the court recognized the City’s interest in public safety, they ultimately found the City “provided no explanation as to how teaching yoga would lead to harmful consequences to these interests, or even what those consequences might be.” Based on the Ninth Circuit’s decision in *Hubbard*, public agencies that own or operate parks and beaches should consider whether content-based ordinances that restrict expressive activities, such as yoga, in public spaces would survive the strict scrutiny standard.

This e-alert was prepared by RWG summer associate, Kelley Xuereb, a rising third year law student at the U.C. Davis School of Law. If you have any questions about how this case may affect your agency, please contact **Nicholas Ghirelli**, or **your RWG attorney**.