

Content-Neutral Ordinance May Apply Different Rules to On- And Off-Premises Signs

04.26.2022

A sign ordinance that regulates on-premises signs differently than off-premises signs is content-neutral and subject to greater deference by the courts.

In *City of Austin v. Reagan National Advertising of Austin, LLC*, the U.S. Supreme Court considered a First Amendment challenge to a sign ordinance that prohibits digitizing existing off-premises signs, but permits digitized on-premises signs. The ordinance defines an “off-premises sign” as “a sign advertising a business, person, activity, goods, products, or services not located on the site where the sign is installed, or that directs persons to any location not on that site.”

The challenge was brought by a company that owns billboards in Austin, Texas. When the company sought permits to digitize some of its off-premises billboards, the City denied the applications. The company then filed suit alleging that the City’s prohibition against digitizing off-premises signs - but not on-premises signs - is a content-based regulation of speech that violated the First Amendment.

Under long-standing legal precedent, content-based speech regulations are subject to strict judicial scrutiny and are presumptively unconstitutional. In contrast, content-neutral speech regulations are subject to a less stringent standard and will be upheld if they are narrowly tailored to serve a substantial government interest unrelated to the suppression of free expression and leave ample alternative channels for communication.

The Court ruled that the sign ordinance’s distinction between on- and off-premises signs is content neutral because the ordinance does not discriminate based on “the topic discussed or the idea or message expressed,” but instead examines speech along neutral, location-based lines. The Court emphasized that its past decisions “have consistently recognized that restrictions on speech may require some evaluation of the speech and nonetheless remain content neutral.”

ATTORNEYS

Marian Slocum

For further information regarding this case, please contact **Marian Slocum, Brendan Kearns**, or any other attorney in our **Municipal and Public Agency Law Department**.