

New Land Use Cases

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Presented to

Land Use Conference

University of Texas, Continuing Legal Education

Austin, Texas / April 2017

I. CONFLICT & PREEMPTION (state and federal laws)

Recent preemptions

- ***BCAA Appeal Group v. City of Houston***

- Texas Clean Air Act preempts City's air-quality registration and enforcement ordinance

- ***Laredo Merchants Association v. City of Laredo***

- Solid Waste Disposal Act preempts City's plastic bag ordinance

- ***Attorney General Opinion No. KP-0086***

- Texas Natural Resources Code preempts all City regulations of LPG

II. FIRST AMENDMENT (signs, content neutrality)

Reed v. Town of Gilbert

- **Ordinance set different rules for:**
 - Political signs
 - Ideological signs
 - Temporary directional signs

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Reed v. Town of Gilbert

- **Ordinance set different rules for:**
 - Political signs
 - Ideological signs
 - Temporary directional signs
- **Rules were “content based” so “strict scrutiny” applied**
 - Did rules further a “compelling” governmental interest?
 - Were rules “narrowly tailored” to achieve that interest?
- **HELD: Unconstitutional . . . 9-0 . . . (3 used lower standard)**

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Auspro Enterprises v. TxDOT



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Auspro Enterprises v. TxDOT

- Texas Highway Beautification Actsigns, billboards
- Exemptions/differential rules for:
 - election signs
 - signs protecting life, property
 - public service signs
 - signs of non-profits
 - subdivision, HOA signs
 - ranch name signs
- **HELD:** statute and TxDOT rules are **unconstitutional**
 - . . . citing *Reed*

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[Land Use 2017: Legislative Update, New Land Use Decisions, and More](#)

First appeared as part of the conference materials for the

21st Annual Land Use Conference session

"New Land Use Decisions"