New Land Use Cases

James L. Dougherty, Jr.

Attorney at Law, Houston, Texas

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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

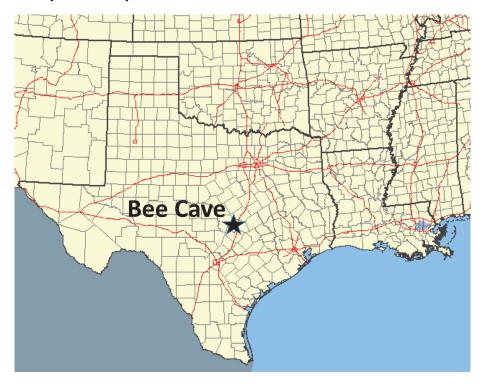
II. FIRST AMENDMENT (signs, content neutrality)

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)

II. FIRST AMENDMENT (signs, content neutrality)

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

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