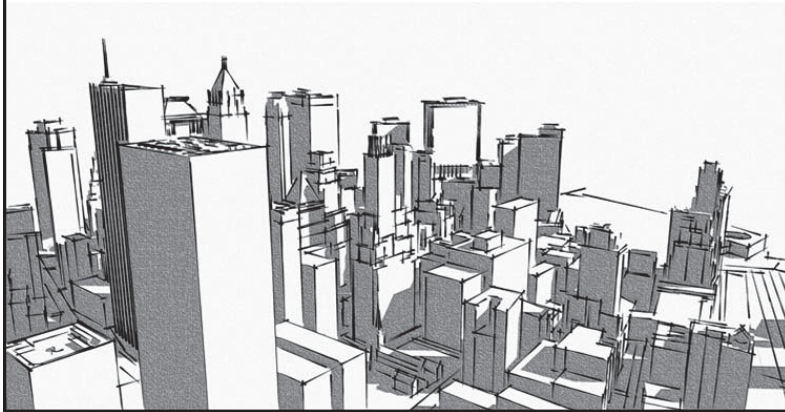


# THE REGULATION OF SOLICITATION, THE HOMELESS, AND CHARITABLE DONATION BINS IN THE SHADOW OF *REED V. TOWN OF GILBERT*

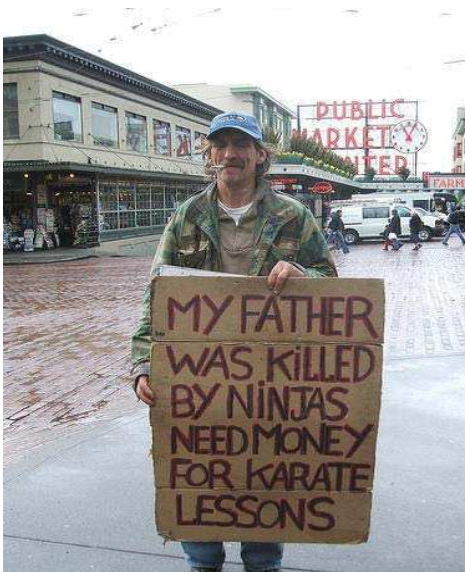
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CN1  
CN2

## ”Competing 1<sup>st</sup> Amendment Interests”



## The path to *Reed*.

- **Panhandling Regulations**

- Recognized as protected speech since the late 1980s
  - *United States v. Kokinda*, 497 U.S. 720, 725 (1990)
  - *Vill. of Schaumburg v. Citizens for a Better Env't.*, 444 U.S. 620, 629 (1980)
- Division among the circuits emerged over content-neutrality
  - **CONTENT BASED / STRICT SCRUTINY**
  - 2<sup>nd</sup> Circuit (1993) – NY Penal Code criminalized panhandling (e.g., San Antonio)
  - 9<sup>th</sup> Circuit (2006) – invalidated Las Vegas Ordinance as being content-based
  - 4<sup>th</sup> Circuit (2013) – distinguished between different types of solicitations
  - 6<sup>th</sup> Circuit (2013) – prohibition on category of speech protected by 1<sup>st</sup> Amendment
  - **NOT CONTENT BASED / INTERMEDIATE SCRUTINY**
  - 7<sup>th</sup> Circuit (Norton – 2014) – Location-specific ordinances content neutral
  - 1<sup>st</sup> Circuit (Thayer – 2014) – Ordinances were content-neutral
  - District of Columbia - prohibiting solicitation near park monuments

- **Then *Reed* in June 2015, followed by *Thayer* a few weeks later.**

- While the *Reed* decision on sign regulation came out of nowhere, the *Thayer* case had been cooking for some time as the issue made its way through the various circuit courts.
- *Reed* reset the standard on 1<sup>st</sup> Amendment jurisprudence; *Thayer* followed.

## It all began in the “desert.”

- **Town of Gilbert, Arizona**

- Population as of June 2015: 233,028
- Doubled every five years from 1980-2000
- Median Population Age: 31.9
  - 77% of population under age 50
  - 33% of population under age 19
- Highest median incomes in the state of Arizona: \$80,080



- **The Good News Community Church (Pastor Reed)**

- Small and cash-strapped (lawsuit)
- Did not own a facility
- “Mobile” services
- Used temporary signs to advertise services
- All they wanted to do was advertise their church services.



## Everything was *fine* until...

- Gilbert adopted a comprehensive sign code in 2005
  - Appendix "A": Sign Code as of 11-30-14
- **Purpose:**
  - Promote optimum conditions for serving sign owners' needs
  - Respecting [sign owners] rights to identification while balancing the community's aesthetic interests
- **Necessary and in the public interest because:**
  - A. To promote and aid the public and private sectors in the identification, location, and advertisement of goods and services.
  - B. To enhance the beauty, unique character, and quality of the Town of Gilbert, which will attract commerce, businesses, residents and visitors.
  - C. To promote economic development and the value of commercial properties, be sensitive to surrounding land uses and maintain an attractive community appearance.
  - D. To promote general safety by ensuring properly designed and located signs.
  - E. To encourage signs that are clear and legible to the user.
  - F. To emphasize small town historical character by promoting pedestrian oriented and appropriately scaled signage in the Heritage Village Center zoning district.

## Categorical Content Regulations

- **Ideological Signs:**
  - any sign communicating a message or ideas for non-commercial purposes that is not a Construction Sign, Directional Sign, Temporary Directional Sign Relating to a Qualifying Event, Political Sign, Garage Sale Sign, or a sign owned or required by a governmental agency
- **Political Signs:**
  - any temporary designed to influence the outcome of an election called by a public body.
- **Temporary Directional Signs relating to Qualifying Event:**
  - any "temporary sign" intended to direct pedestrians, motorists, and other passersby to a "qualifying event."

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## Title search: Regulation of Solicitation, the Homeless, and Charitable Donation Bins

First appeared as part of the conference materials for the  
22<sup>nd</sup> Annual Land Use Conference session

"Regulation of Solicitation, the Homeless, and Charitable Donation Bins"