

Bond Case Briefs

Municipal Finance Law Since 1971

MUNICIPAL ORDINANCE - GEORGIA

Flanigan's Enterprises, Inc. of Georgia v. City of Sandy Springs, Georgia

United States Court of Appeals, Eleventh Circuit - August 2, 2016 - F.3d - 2016 WL 4088731

Adult bookstore brought action against city, asserting Fourteenth Amendment Due Process Clause challenge to city's municipal ordinance that prohibited the sale, rental, or lease of obscene material, including "[a]ny device designed or marketed as useful primarily for the stimulation of human genital organs."

Individuals who sought to purchase sexual devices for their private sexual activity and for use in artwork intervened.

The United States District Court granted city's motion for judgment on pleadings. Plaintiffs appealed.

The Court of Appeals held that consenting adults had no fundamental right to engage in private sexual intimacy, including by the use of sexual devices in the privacy of the home.

Consenting adults had no fundamental right to engage in private sexual intimacy, such as the use of sexual devices in the privacy of the home, and thus a city municipal ordinance did not violate the Due Process clause by prohibiting the sale, rental, or lease of obscene material, including "[a]ny device designed or marketed as useful primarily for the stimulation of human genital organs."