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MUNICIPAL ORDINANCE - CALIFORNIA

Smith v. City of San Jose

Court of Appeal, Sixth District, California - December 17, 2013 - Not Reported in Cal.Rptr.3d - 2013 WL 6665712

San Jose resident Ted Smith raised facial challenges to the constitutionality of several San Jose Municipal Code (SJMC) ordinances regulating and defining expenditure lobbyists and in-house lobbyists, and a SJMC ordinance prohibiting lobbyists from intentionally deceiving or attempting to deceive city officials about pending legislative or administrative actions.

Specifically, Smith challenged three of the City's ordinances: (1) the definition and regulation of "expenditure lobbyist" (SJMC, § 12.12.180C), (2) the definition and regulation of "in-house lobbyist" (id., B), and (3) the City's anti-deceit ordinance prohibiting individuals from intentionally deceiving a public official about pending administrative or legislative activity (id., § 12.12.500C). Smith filed a lawsuit, authorized under Code of Civil Procedure section 526a, challenging the ordinances.

Respondents were the City of San Jose and the San Jose Elections Commission. Smith filed a taxpayer suit over the ordinances in question, alleging that they infringe upon the constitutional right to free speech, are overbroad, and are unduly vague.

The trial court below denied Smith's motion for summary judgment and granted the City's motion for summary judgment in part, after finding that the expenditure lobbyist ordinance, in-house lobbyist ordinance, and anti-deceit ordinance all passed constitutional muster. Smith appealed. The court of appeals affirmed.