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MUNICIPAL ORDINANCE - NORTH CAROLINA

King v. Town of Chapel Hill

Supreme Court of North Carolina - June 12, 2014 - S.E.2d - 2014 WL 2612603

Operator of vehicle towing business brought action against city seeking to prevent enforcement of city ordinances relating to regulation of towing practices and mobile phone usage. The Superior Court granted injunction enjoining enforcement of ordinances. City appealed. The Court of Appeals reversed. Operator petitioned for discretionary review.

The Supreme Court of North Carolina held that:

- Municipality was not without the authority to regulate nonconsensual towing from private lots;
- The general authority of municipality to regulate nonconsensual towing from private lots was broad enough to sustain municipal towing ordinance's notice and signage requirements; but
- Municipality exceeded its authority by imposing a fee schedule for nonconsensual towing from private lots;
- Municipality exceeded its authority by prohibiting towing companies from passing the cost of accepting credit card payments on to those who had been towed for being illegally parked;
- Striking the fee schedule and credit card fee provision of municipal towing ordinance did not hinder the overall purpose of the ordinance to minimize and control the harmful and adverse effects that occur during the non-consensual towing of motor vehicles, and thus, the remainder of the ordinance remained intact;
- Municipality's mobile phone ordinance's alleged substantial encumbrance on economic activity constituted a manifest threat of irreparable harm sufficient to invoke the equity jurisdiction of the Superior Court; but
- The legislature's comprehensive scheme regarding mobile telephone usage on streets and highways precluded municipality from attempting to regulate mobile telephone usage by drivers through its general ordinance-making power.

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