

Bond Case Briefs

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MUNICIPAL ORDINANCE - MASSACHUSETTS

Showtime Entertainment, LLC v. Town Of Mendon

Supreme Judicial Court of Massachusetts, Suffolk - July 8, 2015 - N.E.3d - 2015 WL 4094282

Owner of lot within town's adult entertainment overlay district brought action against town and two members of town's board, alleging that bylaw prohibiting the sale or presence of alcohol at adult entertainment establishments constituted impermissible prior restraint on freedom of speech. The District Court granted summary judgment in favor of town. Owner appealed. The Court of Appeals reversed and certified a question to the Massachusetts Supreme Judicial Court.

The Supreme Judicial Court of Massachusetts held that:

- Town established sufficient countervailing State interest to support ban, but
- Ban was not sufficiently narrowly tailored.

Town established sufficient countervailing State interest to justify ban on alcohol service at adult entertainment businesses, so as to support determination that ban did not constitute unconstitutional prior restraint on freedom of speech under state constitution, where town considered studies showing increased crime was a secondary effect when adult entertainment and alcohol service were in physical proximity.

Town's ban on alcohol service in adult entertainment establishments was not sufficiently narrowly tailored, and therefore constituted an unconstitutional prior restraint on freedom of speech under state constitution. Banning all manner of expression at establishments licensed to serve alcohol on the basis that the expression featured nude dancing was not the logical response to the determination that alcohol service in physical proximity to adult businesses increased the incidence of crime.