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Oregon Natural Resources Council Fund v. Port of Portland

Court of Appeals of Oregon, En Banc - June 28, 2017 - P.3d - 286 Or.App. 44720 - 17 WL 2797443

Environmental organization filed action for writ of review and declaratory relief, alleging that municipal port government's rejection, based on its content, of organization's proposed advertisement at international airport, which was owned and operated by municipal port, violated constitutional free-speech guarantees.

Following the return of the writ and the record, organization and municipal port filed cross-motions for summary judgment. The Circuit Court granted organization's motion and denied municipal port's motion. Municipal port appealed.

The Court of Appeals held that:

- Appeal of trial court's order granting organization's motion for summary judgment was not moot;
- Municipal port's enactment of policy prohibiting placement at airport of advertising materials containing political messages constituted the passing of a law in violation of state constitutional provision prohibiting the passage of laws restraining free speech;
- Municipal port's policy fell within first category of *State v. Robertson*, 293 Or. 402, 649 P.2d 569, framework for evaluating claims under state constitutional provision, under which speech regulations based on the content of expression were impermissible unless wholly confined to a historical exception; and
- Municipal port's policy did not fall within well-established historical exception, for purposes of Robertson framework.