

The number of large billboards along a city's major roadways has increased considerably in recent years. Many political groups have contributed to that increase with their growing use of billboards to display messages that further a variety of political candidates and public causes. The city council has received many complaints from residents claiming that the billboards are ugly and detract from picturesque sights along the roadways.

In response to these complaints, the city council has enacted an ordinance that substantially limits the number and the size of billboards that may be erected along designated scenic roadways.

A company that owns many of the billboards affected by this ordinance has filed suit, claiming that the ordinance violates the company's freedom of speech.

Should the court uphold the ordinance?

- A. No, because the ordinance burdens political speech and is not necessary to further a compelling government interest.
- B. No, because the ordinance restricts speech in a traditional public forum.
- C. Yes, because the ordinance is narrowly tailored to further the substantial government interest in the city's appearance.
- D. Yes, because the ordinance reasonably regulates the use of public roadways.

Incorrect

Correct answer C

Collecting Statistics

01 min, 04 secsTime Spent

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Explanation:

The First Amendment primarily protects speech against content-based regulations (ie, restrictions on what is said). And though the government has more latitude to impose **content-neutral** regulations (ie, **time, place, or manner restrictions**), such regulations are also subject to constitutional review. In a **public forum** (as seen here), the government may impose time, place, or manner restrictions that satisfy **intermediate scrutiny review**. This standard of review requires the government to prove that its content-neutral restrictions:

are **narrowly tailored** to serve a **substantial government interest** and leave open ample **alternative channels of communication**.

Here, the city council enacted an ordinance to further its substantial interest in the city's aesthetic appearance. The ordinance is narrowly tailored to serve that interest because it limits the number and size of billboards that may be erected along the city's designated scenic roadways. And the ordinance provides ample alternative avenues of communication by allowing some billboards to be erected along those and other roadways. Therefore, the ordinance satisfies intermediate scrutiny and should be upheld by the court.

(Choice A) Content-based restrictions that burden political speech are unconstitutional unless the government proves that the restriction is necessary to achieve a compelling government interest (ie, satisfies strict scrutiny). But since the ordinance is a content-neutral restriction, it need only satisfy intermediate scrutiny.

(Choice B) Although the ordinance restricts speech along public roadways—a traditional public forum—the ordinance is constitutional because it satisfies intermediate scrutiny.

(Choice D) The ordinance may reasonably regulate the use of public roadways by limiting the size and the number of billboards. However, whether a speech restriction is reasonably related to a legitimate government interest (ie, satisfies rational basis scrutiny) only applies to speech restrictions in nonpublic forums—not public forums.

Educational objective:

The government may impose content-neutral restrictions on speech if the government satisfies intermediate scrutiny. Under this standard of review, the government must prove that the restrictions (1) are narrowly tailored to serve a substantial government interest and (2) leave open ample alternative channels of communication.

References

Members of City Council of L.A. v. Taxpayers for Vincent, 466 U.S. 789, 817 (1984) (holding that an ordinance prohibiting posting signs on public property is a constitutional time, place, and manner speech restriction).

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**Content-neutral restrictions
(speech on government property)**

