

First Amendment Rights - Fall, 2021
Prof. Harpaz

Sample Exam Question
(40 total points)

The City of Springdale has a Sign Ordinance which provides:

It shall be unlawful for commercial businesses to erect, cause to be erected, maintain or cause to be maintained any of the following on signs displayed outside their business to identify or advertise their business: any word, character, illustration, or graphic design that is indecent, obscene or immoral.

Under the ordinance, the City Manager is authorized to monitor compliance by making inspections and issuing notices of violation. The purpose of the ordinance is to preserve and protect the natural beauty of the city, protect property values, and reduce distractions to motorists caused by outdoor signs that may contribute to traffic accidents.

David's Pizza is a restaurant that has been doing business in Springdale for many years. Its owner, David Leonardo, in addition to being a successful restaurateur, is also a student of Italian Renaissance art. Recently, Mr. Leonardo designed a new sign to advertise his restaurant. He erected the sign above the entrance to his restaurant. He was pleased that he was able to combine his interest in art, and particularly his love for the works of Michelangelo, with his interest in promoting his restaurant by including a picture of Michelangelo's famous statue of David on his graphic display for his restaurant. He has received many favorable comments from his customers about his new sign.

In addition to the favorable comments, however, Mr. Leonardo also received a notice from the Springdale City Manager that the sign above David's Pizza violates the Sign Ordinance since it is indecent. The notice instructed him to remove his sign or face the imposition of penalties under the statute. After receiving the notice, Mr. Leonardo filed a lawsuit in federal district court challenging the constitutionality of the Sign Ordinance as a violation of his First Amendment rights.

You are a law clerk to the judge assigned to the case. The judge asks you to

write a memorandum detailing the First Amendment arguments that are available to Mr. Leonardo to argue that the Sign Ordinance violates the First Amendment as well as the arguments available to the City of Springdale in defending its Sign Ordinance against a First Amendment challenge. To assist you in writing your memorandum, below is a photograph of the sign above David's Pizza.

