

## LEGL710 – WEEK1 DISCUSSION QUESTION

Instructor: Marc D. Matlock, J.D.

Shortly after graduating from Davenport, you obtain a job working for Practical Professional Solutions, Inc. (“PPSI”), a professional consulting firm that provides business and government regulatory advice to hundreds of professional businesses located throughout west Michigan. One of PPSI’s most distinguished clients is Prime Parcels, Inc. (“PPI”), a local real estate brokerage firm that does business in several west Michigan counties.

PPI is upset about a recent local ordinance adopted by the City of Dunesbury, a charming residential community located near the shore of Lake Michigan. The ordinance in question prohibits any type of “yard sign” or other form of “commercial advertising” placed on private residential property “regardless of the location of the sign or the content of its message.”

Upon doing some investigation, you learn that the ordinance was adopted in response to a horrible traffic accident that recently occurred in Dunesbury. According to the police report, two neighborhood children engaged in a game of “hide and seek” were struck and killed by a passing motorist when they unexpectedly darted into the street from behind a large yard sign placed on the street corner advertising a garage sale. In order to “protect neighborhood children” by preventing such a horrible occurrence from ever happening again, the Dunesbury City Council has decided “in the interest of public safety” to enact a complete ban prohibiting any and all yard signs “advertising any type of sale of any sort.”

PPI is opposed to the ordinance because it will prevent its sales agents from placing “For Sale” signs on residential properties that have been listed for sale with PPI. During a telephone conversation, PPI’s Executive Vice President Bernie Whitman informs you that he understands the City’s concern for the safety of its children. “However,” Bernie tells you, “our For Sale signs are so small that children at play won’t be enticed to hide behind them, and if the City wants us to, we can even make the signs smaller.” Whitman also tells you that “we can make sure our agents place the signs at a safe distance away so that, even if children were to hide behind them, passing motorists would not pose an increased danger to child safety.”

PPI wishes to file a lawsuit challenging the ordinance on the grounds that it violates PPI’s right to freedom of speech as guaranteed by the First Amendment. Answer the following questions:

- 1) If PPI elects to challenge the ordinance in court, would a federal district court have subject matter jurisdiction to hear and decide PPI’s lawsuit? Explain.**
- 2) Do you think PPI should win its lawsuit on the grounds that its First Amendment rights have been violated? Explain.**
- 3) Assume PPI sues the city in federal district court and wins. Can the City appeal the trial court’s decision, and what court will hear the appeal? Explain.**