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Personal Preference and Local Tyranny

by Scott McPherson

Encouraged by a 13-year-old court ruling, the City of Concord, New Hampshire, two months ago banned businesses from displaying electronic signs. Already that ban has caused controversy, with a local businessman suing the city in federal court.

The city bases its decision on a 1993 ruling by the state supreme court, which upheld a local sign ordinance because, according to the court, “it is within the power of the [town] to determine that the community should be beautiful as well as healthy.”

But the owner of Naser Jewelers has a different opinion of “beautiful” from the Concord city council, and he wants a U.S. District Court to order a revocation of the ban.

The attorney representing Naser told the New Hampshire Union-Leader that “people like [electronic signs]. Some say they’re much more aesthetically pleasing than the old reader board signs, with the plastic interchangeable letters.”

Apparently these particular citizens don’t have the ear of the city government. Roger Hawk, director of Community Development for Concord, defended the city’s position: “You can still say Joe’s Bar and Grill. You can do it with a painted sign, or an internally illuminated plastic sign,” he said.

Put another way, if the government wants to arbitrarily ban McDonald’s it’s not infringing on a person’s right to choose, because he could still patronize Burger King or Wendy’s as alternatives.

Eh?

Really, it boils down to this: most of Concord’s city councilors prefer painted signs; or even internally illuminated signs. They just don’t like electronic signs.

And in a day and age when freedom finds few friends, and a ready excuse for statism perches just behind virtually every citizen’s lips, we shouldn’t be surprised to find mere preferences codified in law.

Sad to say, there’s not even a pretext of good old-fashioned paternalism here. Americans have become used — complacent, we might even say — to being babysat by their local

governments. Zoning laws and local ordinances micromanage just about our every waking moment.

That's bad enough, but this law is about nothing less than the exercise of capricious power.

Government exists to protect our rights, and doing even that job is hard enough. Relatively speaking it's a breeze when compared with justifying a public official's personal aesthetic desires!

Matters of preference have no place in the realm of lawmaking. A case like this isn't about competing definitions of beauty; how one might choose to advertise his business is an exercise of one's right to do what he thinks best with his own property.

Rights are definable and absolute. Preference is a fanciful and ever-shifting standard. The former are a solid foundation for good government; the latter, when backed up by the force of law provides the essence of tyranny.

New Hampshire's constitution states that government is "instituted for the common benefit, protection, and security, of the whole community, and not for the private interest or emolument of any one man, family, or class of men."

The framers of that document understood those words to mean that government should exercise few and defined powers with the end goal of defending each citizen's life, liberty, and property. Nowhere will we find a call for regulating another's life or property purely because he's doing something some politician doesn't like — let alone for not being "beautiful."

The visual attractiveness or repulsiveness of electronic signs is irrelevant, and in fact the issue is impossible to determine objectively by law. By placing such a sign in front of his business, the owner of Naser Jewelers is offending nothing more sacred than the subjective preferences of people who wield arbitrary and capricious political power.

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