

FREE SPEECH RIGHTS IN CALIFORNIA SHOPPING CENTERS

(Provided by Westfield Parkway on 11/27/2007)

The Center is privately owned and managed. In 1972, the United States Supreme Court held that shopping center owners were not required to allow individuals onto their property for purposes other than shopping, Lloyd Corp. v. Tanner (1972) 407 U.S. 551. In 1980, the United States Supreme Court in Pruneyard Shopping Center v. Robins (1980) 447 U.S. 74, further held that since the California Constitution may require shopping centers to grant access to members of the public for purposes other than shopping, property owners may regulate Non-Commercial Expressive Activities through reasonable time place and manner rules.

Following the decision in the Pruneyard case, several courts have ruled on the type of regulations that shopping center owners legally may enforce. These cases have held, for example, that owners may require that all persons wishing to engage in non-commercial expression apply to and obtain permission from the owner prior to commencing their activity. HCHH Associates v Citizens for Representative Government (1987) 193 Cal. App. 3d 1193. Owners may also restrict the time and location of the activity. Savage v. Trammell Crew Company Inc (1990) 223 Cal. App. 3d 1562. Property owners may even completely prohibit some types of activity such as solicitation of donations and sales of merchandise; HCHH Associates; supra, and the staging of performances and demonstrations, WestSide Sane/Freeze v. Ernest W. Hahn, Inc. (1990) 224 Cal. App. 3d 546.

Union of Needletrades, Industrial & Textile Employees. AFL-CIO vs. Superior Court (Taubman Company) (1997) 56 Cal. App. 4th 996, confirmed that shopping center owners could require individuals and organizations to pre-apply and otherwise comply with rules requiring insurance, identity of participants, identification of principal activities and prior submission of signs, leaflets, etc.

Recently, the National Labor Relations Board confirmed that even individuals and groups seeking to engage in activities, protected by the National Labor Relations Act must submit an application before engaging in protected activity at a privately owned shopping center. Glendale Associates Case 31-CA 22759, 335 NLRB No. 8 (Aug. 23, 2001)

In accordance with these cases, the owner and manager of this shopping center have enacted Rules for Non-Commercial Expressive Activity. These rules conform to the mandates of the California Constitution and the relevant case law. If you refuse to to comply with the Rules of this shopping center, neither the First Amendment nor any case gives you the right to engage in free speech activities in the shopping center. Violation of the Rules for this shopping center may give rise to a civil action and/or criminal prosecution against you.