



December 13, 2022

Via Certified Mail & Email

Ms. Julie Kriegh, City Attorney
City of Phoenix
200 West Washington Street
13th Floor
Phoenix, AZ 85003
Julie.kriegh@phoenix.gov

Re: Super Bowl Clean Zone

Dear Ms. Kriegh:

Our office represents Bramley Paulin, a Phoenix resident and business owner who owns two pieces of property within the “Special Promotional and Civic Event Area” the City of Phoenix recently established in connection with the 2023 Super Bowl.

Mr. Paulin would like to lease out his property during the upcoming Super Bowl activities, including for the placement of temporary signage on his property before, during, and after the Super Bowl. The City, however, has imposed access restrictions that are so stringent as to render the leasing and use of the property virtually impossible. In addition, the City recently passed Resolution 22073, which “restrict[s] all temporary signage within the Special Promotional and Civic Event Area that has not been authorized by the NFL or the Arizona Super Bowl Host Committee.” We gather that these restrictions cover virtually all of downtown Phoenix, they are already being enforced, and they will remain in force through Sunday, February 19, 2023.

When Mr. Paulin reached out to potential partners about the possibility of leasing and advertising on his property, the potential partners immediately rejected his proposal because the city-imposed “Clean Zone” and the City’s temporary signage restrictions forbid any advertising not approved by the NFL and the Super Bowl Host Committee. We understand that the City has stated in various guidance, including a letter dated June 10, 2022, that “no temporary sign permits will be issued without the approval of the NFL, Arizona Super Bowl Host Committee, and City beginning on November 1, 2022.”

The City's restriction on temporary signage violates state and federal constitutional provisions protecting freedom of speech, as it is overbroad, a prior restraint, and a content-based regulation. The ordinance also violates constitutional guarantees regarding due process and improper delegation of government power by broadly authorizing two private entities—the NFL and the Arizona Super Bowl Host Committee—to regulate private citizens' speech with unfettered discretion and no procedural safeguards. It is well established that the government “may not delegate its authority to private persons over whom [it] has no supervision or control.” See, e.g., *Emmett McLoughlin Realty, Inc. v. Pima Cnty.*, 203 Ariz. 557, 559 ¶ 7 (App. 2002); *Indus. Comm'n v. C & D Pipeline, Inc.*, 125 Ariz. 64, 66 (App. 1979). Additionally, the restriction runs afoul of the Arizona Constitution's prohibitions on government aid to private entities, particularly the Equal Privileges and Immunities Clause and the Gift Clause. See Ariz. Const art. 2 § 13; art. 9 § 7.

The City's restrictions have already imposed substantial harm on Mr. Paulin and will continue to do so. We therefore request that the City provide us with written assurance that Mr. Paulin, his business partners, and any other person approved by Mr. Paulin may advertise on his property without unreasonable restriction and without any input or review by the NFL or the Super Bowl Host Committee.

Time is of the essence in this matter, as every passing day is another day Mr. Paulin is denied the ability to exercise his constitutional rights. If we do not receive written assurance from the City we will seek legal remedy.

We are available to discuss this matter with you at any time. Should you have any questions, I can be contacted directly at jthorpe@goldwaterinstitute.org or at the number below.

Sincerely,



John Thorpe
Staff Attorney
Scharf-Norton Center for
Constitutional Litigation at
the Goldwater Institute

Julie Kriegh
December 13, 2022
Page 3 of 3

cc (via email only):

Mayor Kate Gallego
mayor.gallego@phoenix.gov

Jeff Barton, Phoenix City Manager
Jeffrey.barton@phoenix.gov

Councilmember Ann O'Brien, District 1
Council.district.1@phoenix.gov

Councilmember Jim Waring, District 2
Council.district.2@phoenix.gov

Councilmember Debra Stark, District 3
Council.district.3@phoenix.gov

Vice Mayor Laura Pastor, District 4
Council.district.4@phoenix.gov

Councilmember Betty Guardado, District 5
Council.district.5@phoenix.gov

Councilmember Sal DiCiccio, District 6
Council.district.6@phoenix.gov

Councilmember Yassamin Ansari, District 7
Council.district.7@phoenix.gov

Councilmember Carlos Garcia, District 8
Council.district.8@phoenix.gov