

AMERICAN CONSTITUTIONALISM
VOLUME II: RIGHTS AND LIBERTIES
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Supplementary Material

Chapter 11: The Contemporary Era – Equality/Equality Under Law

Wal-Mart Stores, Inc. v. City of Turlock, 483 F. Supp. 2d 987 (E.D. Cal. 2006)

On December 16, 2003, and January 13, 2004, the city of Turlock, California adopted a series of zoning ordinances that banned “discount superstores from the city.” Such stores were defined as businesses “exceed[ing] 1,000,000 square feet of gross floor space,” “contain[ing] a full-service grocery department,” and “offer[ing]” a wide variety of customer services and a wide range of products. The city justified this ordinance by pointing to studies demonstrating that discount superstores had adverse community, economic, and environmental effects. Wal-Mart, which had recently purchased land for the purpose of building a discount superstore, filed suit against the city. The suit claimed that the city ordinance violated the equal protection and due processes clauses of the Fourteenth Amendment by preventing Wal-Mart from competing against local retailers.

Federal District Judge Wanger granted summary judgment for the city. Wanger’s opinion concluded that the city ordinance neither violated the due process clause of the Fourteenth Amendment nor any other constitutional provision. When reaching that decision, Judge Wanger applied rational scrutiny. Why was that the proper level of scrutiny? Why did Wanger claim the city regulation was rational? Was that the appropriate level of scrutiny? Did the city of Turlock target Wal-Mart? How would the judiciary know? If targeting did take place, what was the proper level of scrutiny?

WANGER, District Judge.

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“The Equal Protection Clause of the Fourteenth Amendment commands that no State shall ‘deny to any person within its jurisdiction the equal protection of the laws,’ which is essentially a direction that all persons similarly situated should be treated alike.” Because the Ordinance involves social and economic policy, and neither targets a suspect class nor impinges on a fundamental right, it is reviewed according to the “rational basis” standard. Under this test, statutes are generally presumed to be valid and will be sustained if the classification drawn by the statute is rationally related to a legitimate state interest. A legislative classification under rational basis review must be wholly irrational to violate equal protection. The challenger bears the burden of negating every conceivable basis which might support the legislative classification, whether or not the basis has a foundation in the record. A legislative choice is not subject to courtroom fact-finding and may be based on rational speculation unsupported by evidence or empirical data.

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The City’s stated concerns about a discount superstore, which combines general merchandise with an extra-large grocery store, inside Turlock are that it would: (1) draw customers away from the anchoring neighborhood supermarkets, resulting in chain-reactive urban blight as they succumb to discount superstore competition; (2) cause traffic congestion by increasing traffic flows in streets which were not designed to accommodate high traffic volume; and (3) increase automobile use and air pollution.

Various independent studies are cited in the Ordinance’s legislative record:

- A study commissioned by the City of Oakland shows the traffic impact of a discount superstore is greater than the traffic impact of a supermarket, a discount club, or a discount store. It also shows discount superstores cause blight and an increase in air pollution.

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. . . Blight prevention is a legitimate state interest. The other interests the City claims the Ordinance promotes are also legitimate state interests.

Turlock's Ordinance does not discriminate against foreign corporations. No retailer, whether local or foreign, can site a discount superstore in Turlock. Discount superstores, without regard to the identity of their owners or operators, are prohibited within Turlock.

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The City sets forth its rational basis for the Ordinance's distinctions in the memorandum in support of its motion for summary judgment:

[S]tudies in the legislative record showed . . . Discount Superstores cause more traffic than Discount Stores, Discount Clubs, or supermarkets, and this provides a rational basis for prohibiting them. . . . This increased traffic also causes more air pollution. The record also included evidence that competition from a Discount Superstore would threaten the viability of existing neighborhood centers by causing the closure of the supermarkets that anchor those centers, thereby causing blight. This also provides a rational basis for prohibiting Discount Superstores. With regard to Turlock specifically, the City Council received information that one Discount Superstore opening in Turlock would likely cause two or three supermarkets to close. This would mean two or three neighborhood shopping centers would lose their anchors and those shopping centers would then likely slip into decay.

It is well established a legislative choice is not subject to courtroom fact-finding on rational-basis review, and may be based on rational speculation unsupported by evidence or empirical data. Judicial review is at an end once the court identifies a plausible basis on which the legislature may have relied. . . . The City's offered basis for the Ordinance's distinctions is rational.

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Zoning law cannot be used solely to safeguard local merchants against competition from new development. But it is also axiomatic that reviewing courts regard legislative motive as irrelevant except in cases of heightened scrutiny, usually involving allegations of discrimination based on race, gender, or ethnicity. In all other situations, there are good reasons why courts should ignore legislative motives. The motives of official decision-makers are seldom clearly discernible and could often be easily hidden or disguised. Most telling of all, to speak of the "motives" of a legislative body is to attribute human characteristics to an inanimate construct, the body politic. It has no motives because it is not a person.

Here, the Ordinance neither discriminates on the basis of a suspect or quasi-suspect classification, nor infringes on a fundamental right. The Ordinance is rationally related to the legitimate state interests of preventing traffic congestion and urban blight, and minimizing air pollution. The Ordinance does not violate the Equal Protection Clause of the Fourteenth Amendment.

[The court then rejected a claim that the Turlock Ordinance violated the interstate commerce clause and was unconstitutionally vague.]