



# TEXAS MUNICIPAL LAW BULLETIN™

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## Evicting Citizens from Public Meetings

The U.S. 5th Circuit Court of Appeals (which covers Texas) recently ruled on a Louisiana dispute involving a citizen who was ejected at a city council meeting. The citizen sued the chairperson, the police officer who removed him, the city and the parish, asserting violations of the U.S. Constitution, the state constitution, false arrest, battery and negligence. *Heaney v Roberts*, No. 15-31088 (5th Cir. Jan. 23, 2017) available at <http://www.ca5.uscourts.gov/opinions/pub/15/15-31088-CV0.pdf>.

The citizen attended a regularly scheduled council meeting. In accordance with council rules, the citizen registered to speak during the public comment period. The rules allowed speakers 5 minutes. The citizen questioned the legality of council members accepting campaign contributions from contractors who had received no-bid contracts.

After speaking for 3 minutes, the citizen was interrupted by the chair person and asked to yield the floor to the parish attorney. The parish attorney expressed her opinion that the contributions were legal. The chair then refused to grant the citizen the remainder of his allotted time. The chair insisted the meeting would not be used to berate the parish attorney and essentially dared the citizen to file suit. The chair accused the citizen of being hostile and ordered the police officer (serving as sergeant-at-arms) to remove the

citizen from the chambers, which the officer did forcefully.

In Texas, a person only commits an offense if the person intentionally obstructs or interferes with the meeting by physical action or verbal utterance. Tex. Penal Code §§ 42.05 and 38.13. Free speech is protected unless these acts or utterances substantially impair the ordinary conduct of lawful meetings.

The law prohibits viewpoint discrimination (ideology, opinion or perspective). The government can restrict or regulate speech in a limited public forum so long as the regulation: (1) does not discriminate against speech on the basis of viewpoint and (2) is reasonable in light of the purpose served by the forum.

If the Louisiana citizen had violated a reasonable restriction, such as a topic or time constraint, there would be no constitutional violation. However, the citizen was speaking on an approved topic and within his allotted time, thus, the citizen's First Amendment claims are scheduled to proceed to trial.

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