

First DCA Holds that Municipal Ordinance Limiting Number of Low-Speed Vehicles Available to Rent Did Not Deny Equal Protection or Substantive Due Process

The City of Panama City Beach (the “City”) enacted an ordinance that capped the number of low-speed vehicles (“LSVs”) available for rent at 300. The City evenly distributed the 300 among six licensed businesses which received 50 LSV “medallions” each. KOS 11838, LLC (“KOS”) and BHNVN, Inc. (“BHNVN”) were not among the six businesses that received medallions. KOS and BHNVN challenged the City ordinance on two constitutional grounds: denial of equal protection and denial of substantive due process. KOS and BHNVN first argued that the ordinance as applied violated equal protection in discriminating against them because other similarly situated LSV rental businesses were granted medallions. They also claimed that the ordinance denied them substantive due process because it infringed on their vested property rights in an arbitrary and capricious manner. The City alleged that KOS and BHNVN are owned by the same individual who also owns several other LSV rental businesses, one of which was awarded medallions. The City argued that to award medallions to more than one of the owner’s businesses would grant him a disproportionate share of the LSV rental marketplace.

Following a hearing and upon motion by the City, the trial court granted summary judgment in favor of the City. The trial court applied a rational basis test finding that the ordinance neither discriminated against a suspect class nor infringed upon a fundamental right. The trial court held that KOS and BHNVN were not similarly situated to the businesses granted medallions because they shared owners with one of the licensed businesses that was awarded medallions. The trial court also found that the grouping of KOS and BHNVN with the LSV business that was awarded medallions was not arbitrary and capricious because the owner would otherwise have a disproportionate share of the marketplace.

On appeal, the First DCA reviewed the grant of summary judgment. KOS and BHNVN agreed that the rational basis test was the appropriate standard by which to evaluate their equal protection claim. Under the rational basis test, a classification neither involving fundamental rights nor proceeding along suspect lines is accorded a strong presumption of validity and will be upheld if there is some rational relationship between the disparity of treatment and some legitimate governmental purpose. Under this standard, the First DCA held that limiting the number of LSVs by limiting the number of medallions bears a rational relationship to the legitimate municipal goal of promoting public safety and protecting limited police resources.

The First DCA also applied a rational basis review to KOS and BHNVN’s substantive due process challenge. KOS and BHNVN argued that the ordinance does not prevent a concentration of ownership of the rental LSVs as one entity in theory could transfer their medallions to another under the ordinance. However, the First DCA stated that the fact that a legitimate governmental purpose is not perfectly served by legislation is not a test of its constitutionality. The substantive due process test only asks whether an act bears “any” relationship to a “valid governmental

interest.” KOS and BHNVN never denied that fair competition is a legitimate governmental interest. The First DCA held that because KOS and BHNVN did not negate every conceivable basis which might have supported the ordinance, it must be upheld against a substantive due process challenge. The summary judgment entered in favor of the City was affirmed.