

## Judicial Review Simulation

### Case Fact Situation -

Acts of vandalism began to occur as soon as the Planet Environment Alliance, an environmental activist group with a very bad reputation came into town.

Swimming pools were contaminated with trash and chemicals, construction sites were vandalized and burned, and a new housing development was even destroyed by individuals using chainsaws to cut through the framing of new homes.

The tag PEA had been spray painted in several places around town. For some this was enough to prove that the Planet Environmental Alliance was to blame. Citizens were both angry and frightened, but the police had no evidence that the PEA group was responsible and had no other leads. Also many local residents refused to believe that PEA was involved in the vandalism and supported the organization and its goals. In fact, some citizens had signed up to become members of PEA.

The PEA group held a rally in Taylor Park to protest the harmful effects of development including stormwater runoff, erosion, and pollution. Their stated goal was to make people aware of the harmful affects their homes and lives have on the environment. This protest was organized before any of the acts of vandalism had occurred. About 2,500 people were expected to attend and donations to the cause would be accepted and encouraged.

The rally was held on August 13, 2012 and the outcome was much worse than expected. A citizen group held a counter protest because of the local vandalism and drew over 1000 additional people to the park. The leader of the PEA group, Scott Ecoterr gave a fiery speech that ignited the crowd. He exclaimed, "The planet just can't take this abuse anymore. I don't know who sawed those houses or burned those construction sites, but maybe that's what it takes to get people's attention these days!" and "I wonder if some people began to think of how fish and frogs feel when they saw their back yard swimming pools!"

In the riot that followed 7 people were seriously injured and over 200 required some kind of medical attention.

Over 100 people were arrested, but only one person was charged with a crime

The criminal Case - Vermont v. Scott Ecoterr

Charged with Violating Vermont Statute for Public Assembly Law and inciting a riot

## **Legal Authorities**

Vermont State Statute

Title 20 *Chapter 201: PUBLIC ASSEMBLIES*

United States Constitution – First Amendment

Other case law and legal precedent considered – not specified

### **Court 1 - Vermont District Court – Case heard January 2012**

- Defense – Freedom of speech and Assembly - United States Constitution
- Argued that no permit was needed under Vermont law because this was not a commercial assembly
- Argued that the people causing violence at the rally were not associated with his group.
- A city official testified that a permit was required and was in the interest of public safety. The city would have required some security at the rally.

Verdict: Found Guilty and sentenced to 8 months in prison and \$1,000 in fines.

Key Questions:

Was this a public assembly?

Was permit required?

Did Scott Ecoterr violate Vermont law?

### **Court 2 - Vermont Supreme - Appeal**

Court decides if defendant received a fair trial and if the correct verdict was reached according to Vermont Law.

Key Questions:

Did Scott Ecoterr violate Vermont Law?

Did Scott Ecoterr receive a fair trial?

Did Scott Ecoterr receive a fair punishment for his crime?

### **Court 3 – U.S. Supreme Court – Appeal**

Decides if Vermont Law is Constitutional

Key Questions:

Did Scott Ecoterr receive a fair Trial?

Is the Vermont Law Constitutional?

# **Title 20: Internal Security and Public Safety**

## ***Chapter 201: PUBLIC ASSEMBLIES***

### **§ 4501. Definitions**

As used in this chapter:

- (1) "permit" means a written statement, issued by the commissioner of public safety or his designee, authorizing the holding of a commercial public assembly under stated conditions as to time, place and manner;
- (2) "permit officer" means the commissioner of public safety or officer designated by him to issue permits;
- (3) "person" means an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;
- (4) "political subdivision" means a city, town, village, gore or other incorporated place;
- (5) "commercial public assembly" or "assembly" means a gathering of two thousand or more individuals in a public place which the general public is permitted or invited to attend, conducted or promoted for profit, whether or not a profit is actually returned, where persons are admitted on payment of cash, entry fees, advance subscriptions, or donations, or any thing of value;
- (6) "promotional activity" means purchasing paid advertisements in any media of communication, or circulation of printed material advertising the assembly;
- (7) "public place" means an open area where patrons cannot be accommodated inside a permanent building, other than a stadium used for sporting events, or a fairground having permanent seats for patrons, with respect to which a private person permits use by the general public. (1973, No. 181 (Adj. Sess.), § 1, eff. March 30, 1974.)

### **§ 4502. Permit; when to obtain**

Any person who intends to hold or organizes or promotes a commercial public assembly shall obtain a permit to do so. (1973, No. 181 (Adj. Sess.), § 2, eff. March 30, 1974.)

### **§ 4503. To whom application made; time**

An application for a permit to hold an assembly shall be filed with the permit officer not less than 30 days before the date of the assembly. The permit officer may act on an application not filed in time if the public health and safety will not be jeopardized by such action. (1973, No. 181 (Adj. Sess.), § 3, eff. March 30, 1974.)

#### **§ 4504. Contents of application**

(a) An application for a permit to hold an assembly shall be in writing and signed by an individual authorized to act for the person sponsoring it.

(b) The application shall state:

(1) the date and hours the assembly is to be held;

(2) the name, residence address, and the telephone number of the applicant, the principal officers of the applicant, the individual making the application, and any other individual authorized to represent the applicant in applying for the permit;

(3) the designation and location of the public place where the assembly is to be held;

(4) that the requested use by the applicant of the designated place has been granted by the person having authority to grant the use of the public place;

(5) the estimated number of persons expected to participate in or attend the public assembly;

(6) a schedule and copies of all promotional activity the applicant has engaged in or intends to engage in;

(7) the general nature of the assembly and the arrangements made to protect the public health and safety during the conduct of the assembly, including arrangements with respect to traffic direction, crowd control and sanitation facilities;

(8) any additional information the applicant wishes to furnish. (1973, No. 181 (Adj. Sess.), § 4, eff. March 30, 1974.)

#### **§ 4505. Receipt of application**

Upon receipt of an application for a permit to hold an assembly, the permit officer shall note the time of filing on the application and shall forthwith mail or otherwise deliver a copy of the application to the principal officers of the applicant named in the application, to the attorney general, the state's attorney having jurisdiction, and the clerk of the political subdivision in which the assembly is to be held. (1973, No. 181 (Adj. Sess.), § 5, eff. March 30, 1974.)

#### **§ 4506. Action on application**

(a) The permit officer shall:

(1) issue the permit as requested; or

(2) issue the permit subject to any conditions authorized in section 4507 of this title, which he or she deems necessary to protect the public health and safety; or

(3) apply to the superior court for an order enjoining the holding of the public assembly if conditions cannot be imposed which will protect the public health and safety. If the permit officer fails to act on the application within ten days of the assembly, he or she is deemed to have granted the permit as requested.

(b) The permit officer shall give the applicant immediate notice in writing of his or her action on the application.

(c) By agreement in writing the applicant and the permit officer may modify the time requirements of section 4503 of this title. (1973, No. 181 (Adj. Sess.), § 6, eff. March 30, 1974; amended 1973, No. 193 (Adj. Sess.), § 3, eff. April 9, 1974.)

#### **§ 4507. Criteria for imposing conditions on permit**

(a) If there is a reasonable likelihood that an assembly will substantially harm the public health or safety, the permit officer shall grant the permit upon conditions reasonably necessary to avoid substantial harm to the public health or safety.

(b) The permit officer may impose conditions to ensure that:

(1) public sanitation, food, water, and emergency medical facilities are adequate;

(2) the time, place and duration of the assembly is suitable in view of the number of persons expected to attend;

(3) measures for controlling the crowd and managing the assembly are adequate;

(4) the assembly will not substantially impair the provision of fire and police protection and medical and other essential public services;

(5) the assembly will not unreasonably interfere with the quiet enjoyment of a residential community;

(6) litter incidental to the assembly will be removed and disposed of;

(7) the person holding the public assembly furnishes an adequate bond or arranges other financial security in a reasonable amount to insure reimbursement of a political subdivision, the state of Vermont, or any police agency, for the cost of additional law enforcement officers required to meet any other condition. (1973, No. 181 (Adj. Sess.), § 7, eff. March 30, 1974.)