

Lloyd Corp. v. Tanner

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Lloyd Corp. v. Tanner, 407 U.S. 551 (1972), was a United States Supreme Court case concerning free speech rights on private property.

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Background

Lloyd Center, a large shopping mall near downtown Portland, Oregon owned by the private Lloyd Corporation, had been in operation for eight years when this case commenced. Throughout this period it had a general prohibition on the distribution of handbills, but in general it was open to public use. It permitted the American Legion to sell poppies for disabled veterans, and every year before Christmas, it permitted bell ringers for the Salvation Army and Volunteers of America to set up kettles and solicit contributions. However, it denied access to the March of Dimes and Hadassah, a national Zionist women's service organization. Both major parties' presidential candidates were allowed to speak in the mall's auditorium. The mall's rules were enforced by twelve commissioned special police officers of the city of Portland. These guards had full jurisdiction within the mall, carried guns, and wore uniforms just like the ones worn by the Portland police.

On November 14, 1968, five young people, including the respondents in this case, distributed within the mall handbill invitations to a meeting of the "Resistance Community" to protest against the draft for the Vietnam War. The distribution was quiet and orderly, and there was no littering. A customer complained, and security guards informed the respondents that they were trespassing and would be arrested unless they stopped their distribution. The respondents left the premises as requested to avoid arrest and continued passing out handbills on the streets and

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Supreme Court of the United States

Argued April 18, 1972

Decided June 22, 1972

Full case name	<i>Lloyd Corporation, Ltd. v. Donald Tanner, Betsy Wheeler, and Susan Roberts</i>
Citations	407 U.S. 551 (https://supreme.justia.com/us/407/551/case.html) (<i>more</i>)
Prior history	The United States District Court for the District of Oregon issued a permanent injunction, which the Ninth Circuit affirmed.
Subsequent history	Reversed and Remanded

Court membership

Chief Justice

Warren E. Burger

Associate Justices

William O. Douglas · William J. Brennan, Jr.

Potter Stewart · Byron White

Thurgood Marshall · Harry Blackmun

Lewis F. Powell, Jr. · William Rehnquist

Case opinions

Majority	Powell, joined by Burger, White, Blackmun, Rehnquist
Dissent	Marshall, joined by Douglas, Brennan, Stewart

Laws applied

U.S. Const., amend. I, amend. V, amend. XIV

sidewalks that surrounded the mall. They later brought suit in the United States District Court for the District of Oregon seeking declaratory and injunctive relief under 42 U.S.C. § 1983 (<https://www.law.cornell.edu/uscode/text/42/1983>) and 28 U.S.C. § 2201 (<https://www.law.cornell.edu/uscode/text/28/2201>).^[1]

The District Court found that the mall was open to the general public and equivalent to a public business district. Therefore, it held that the Lloyd Corporation's "rule prohibiting the distribution of handbills within the Mall violates . . . First Amendment rights" and issued a permanent injunction restraining the corporation from interfering with these rights.^[1] The Court of Appeals held that it was bound by the lower court's factual determination as to the character of the Center, and concluded that the Supreme Court precedents *Marsh v. Alabama*^[2] and *Amalgamated Food Employees Union v. Logan Valley Plaza*^[3] compelled affirmance. "For citizens to participate in this nation's government," the Court said, "it is necessary that the public be informed and that its information is uncensored."^[4] The Lloyd Corporation appealed the decision to the Supreme Court, which granted certiorari on the question of whether the appeals court's decision violated property rights protected by the Fifth and Fourteenth Amendments.

Opinion of the Court

Justice Powell's majority opinion distinguished this case from *Marsh v. Alabama*, in which the court held that a company town could not exclude a Jehovah's Witness from distributing religious literature on a privately owned sidewalk. Balancing Marsh's First Amendment rights against the owner's property rights, the court in that case held that Marsh's rights occupied a "preferred position" and weighed heavier than the owner's rights. Here, on the other hand, the Court concluded that the respondents could have distributed their handbills on "any public street, on any public sidewalk, in any public park, or in any public building." Therefore, respondents were not entitled to exercise their free-speech rights on the privately owned shopping-center property.

See also

- *Gunn v. University Committee to End the War in Viet Nam*
- *Mora v. McNamara*

References

1. *Lloyd Corp. v. Tanner*, 407 U.S. 551 (<https://supreme.justia.com/cases/federal/us/407/551/case.html>) (1972).
2. "Marsh v. Alabama". Retrieved 2 November 2011.
3. "Amalgamated Food Employees Union v. Logan Valley Plaza". Retrieved 23 April 2014.
4. "Tanner v. Lloyd". Retrieved 17 July 2014.

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Categories: United States Supreme Court cases | 1972 in United States case law | United States Free Speech Clause case law | Opposition to the Vietnam War | History of Portland, Oregon | Legal history of Oregon | United States Supreme Court cases of the Burger Court

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