



**MML 2018**  
SUMMER CONFERENCE

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## **Hot Button Legal Issues**

### **Public Forum & Free Speech**

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# Hot Button Legal Issues

## Public Forum and Free Speech

Some situations that arise:

- During the public participation segment of a Council meeting, a member of the public becomes unruly or argumentative
  - Do you arrest them? Negotiate with them? Have them removed from the hearing room?
- A vendor wants to distribute flyers in a government building
  - If you allow it, do you have to allow all distributions?
- Using Facebook or Twitter to inform the public about municipal activities and to accept comments and feedback
  - Can you block users who disagree with the government?
  - Can you delete items that are offensive?

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## Public Forum and Free Speech

- Traditional public forum
  - places which by long tradition or by government fiat have been devoted to assembly and debate
  - Streets, sidewalks, parks
- Non-public forum
  - occurs when government opens facilities that are not a traditional public forum; government is the proprietor of the forum
  - e.g. internal mail system, prisons, military reservations
- Designated public forum
  - Government property that has not traditionally been regarded as a public forum is intentionally opened up for that purpose
  - E.g. town hall meeting in public auditorium
- Limited public forum
  - Where government has reserved a forum for certain groups or for the discussion of certain topics
  - E.g. public hearings regarding zoning application or specific legislation

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## Public Forum and Free Speech

- Open meeting does not equate to public forum
  - Right to observe vs. right to participate
  - No right to disrupt official meeting/business
- Remember to consider limiting the forum to maintain focus
- Time limits are permissible
- *See Mitchell v. Maryland Motor Vehicle Admin.*, 450 Md. 282 (2016)

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## Public Forum and Free Speech

What about social media?

- A government cannot block participants based on their views
- BUT you can define the scope of the forum and remove items that do not meet the scope
  - Make sure to include notice that inappropriate or irrelevant items may be removed
  - And you can always ignore irrelevant posts