

04-292 ICE EMBASSY, INC. ET AL., V. CITY OF HOUSTON, ET AL.

QUESTIONS PRESENTED

1. Consistent with the First Amendment, may the permissible locations for adult businesses be repeatedly changed to eliminate the vast majority of existing businesses with each new enactment, without either compelling justifications or an exemption for pre-existing businesses established in reliance on the prior zoning scheme?

2. When an adult zoning ordinance is amended to expand required separation distances, such that the vast majority of existing adult businesses are eliminated, must the increases be justified by evidence of their necessity to combat adverse secondary effects at these greater distances, in order not to violate the "proportionality test" Justice Kennedy articulated as the narrowest holding of the Court in *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002)?

3. Does a speech-licensing regulation facially violate the First Amendment if it prohibits adult business entertainers and managers from working without a required permit, even after the licensor has failed to act on their permit applications within the prescribed time limits?