

2012

(Government) Speech Spaces

Timothy Zick

William & Mary Law School, tzick@wm.edu

Repository Citation

Zick, Timothy, "(Government) Speech Spaces" (2012). *Popular Media*. 160.
https://scholarship.law.wm.edu/popular_media/160

- Concurring Opinions - <http://www.concurringopinions.com> -

(Government) Speech Spaces

Posted By [Timothy Zick](#) On February 10, 2012 @ 9:06 am In [First Amendment, Symposium \(First Amendment Architecture\)](#) | [No Comments](#)

In terms of free speech architecture, I think the developing “government speech” principle poses some important questions. Under this principle, some spaces are principally reserved for *government* speech rather than public discourse. Are government speech spaces exceptions to the doctrine Marvin otherwise views optimistically, a separate aspect of speech architecture, not part of speech architecture at all, or simply products of a flawed doctrine or principle?

I recognize that at this point the governmental speech architecture is not very well-developed. But its foundation is coming into clearer focus. In some spaces, including the [workplace](#) ^[1] and a small public park in [Pleasant Grove City, Utah](#) ^[2], the Supreme Court has exempted certain government decisions from free speech scrutiny on the ground that the spaces do not function as forums for public speech, but rather as government speech spaces. As I have [argued elsewhere](#) ^[3], at least on a conceptual level the Pleasant Grove decision comes close to turning a traditional public forum into a governmental forum. Given its uncertain parameters, a host of other spaces might be affected by the government speech principle. These might include some virtual spaces, such as government websites, that might otherwise serve as forums for public discussion. Under the developing government speech principle, the more involved the government is in terms of funding, managing, and controlling speech activity in a particular space, the more plausible its argument that access may be denied — even on the basis of content.

Perhaps this is just a small wrinkle with regard to speech architecture. Or perhaps the government speech principle will create some significant cracks or holes in the architecture. Either way, I wonder what, if anything, Marvin thinks this doctrine says about the government’s relationship to speech spaces.

Article printed from Concurring Opinions: <http://www.concurringopinions.com>

URL to article: <http://www.concurringopinions.com/archives/2012/02/government-speech-spaces.html>

URLs in this post:

[1] workplace : <http://www.supremecourt.gov/opinions/05pdf/04-473.pdf>

[2] Pleasant Grove City, Utah: <http://www.law.cornell.edu/supct/html/07-665.ZS.html>

[3] argued elsewhere: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1687059

Copyright © 2010 Concurring Opinions. All rights reserved.