

Op-ed: Businesses, not just people, have constitutional rights

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Move to Amend's proposed amendment to the Constitution that would deprive businesses and other "artificial entities" of any constitutional rights is disconcerting at best. I believe the way this proposed amendment has been drafted goes too far by limiting all constitutional rights to "natural persons only."

My law firm represents Yellow Cab Drivers Association in a well-publicized lawsuit against Salt Lake City in which we claim the city failed to accord the local cab companies the due process and equal protection to which they were entitled under the Fourteenth Amendment.

After decades of regulating taxicab services under a system of certificates of public convenience and necessity, the city decided to change the way taxicab services are provided and to seek competitive proposals through an RFP. Yellow Cab's proposal was rejected in favor of out-of-state transportation providers.

Yellow Cab contended the methods used to convert to an RFP system and the way the city's internal protest and appeals process was handled violated the constitutional protections of due process and equal protection. For example, the city refused to appoint a neutral decisionmaker who had no biases.

Alternatively, the city refused to appoint special counsel to advise the appeals board, which was staffed with city employees, and was being advised by the city attorney's office, which also advocated before the appeals board against Yellow Cab.

Yellow Cab also contended that because, under the RFP, taxicab companies were required to pay an onerous minimum annual guarantee to the airport, with no rational basis, its equal rights were being violated because no other competing ground transportation companies were required to pay such a fee to the airport.

As a result, the cab companies, staffed by "natural persons," have spent countless hours and resources fighting a very stressful legal battle. Move to Amend's proposed amendment would, in effect, rubber-stamp such governmental action, granting governments the ability to ignore the procedures necessary to ensure a fair process.

The point missed, I believe, is that these businesses are run by real people with real families, whose livelihoods are at stake when governments are free to act outside of the Constitution with regard to "artificial entities."

If this proposed amendment were to pass in its current form, governments would be free to deprive our local businesses of due process, equal protection, the right to be compensated for deprivations of property, the right to be free from illegal searches and seizures, and other fundamental constitutional guarantees.

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