

For the International Municipal Lawyer's Association - IMLA's 5 things to know for December 12<sup>th</sup>.

1. Last week we reported that the Supreme Court would be reviewing the petition of Recycle For Change seeking to overturn a 9<sup>th</sup> Circuit decision that approved Oakland's ordinance regulating unattended donation bins. The court denied certiorari which leaves in place the 9<sup>th</sup> Circuit decision and suggests that those looking to adopt similar measures ought to look at Oakland's ordinance. As a practice tip, remember to develop your own reasons why you need such an ordinance, what are the costs to the government without the law, what are the nuisances created by the unattended boxes and the aesthetic concerns among other valid bases for the law.

[https://library.municode.com/ca/oakland/codes/code\\_of\\_ordinances?nodeId=TIT5BUTAPERE\\_CH5.19UNDOCOBO](https://library.municode.com/ca/oakland/codes/code_of_ordinances?nodeId=TIT5BUTAPERE_CH5.19UNDOCOBO)

2. Yesterday, the Federal Circuit decided two cases that might lead you to wonder where your tax dollars are going and if making a federal case out of an issue is only just a proverb. In one a Plaintiff sued claiming the federal courts effected a "taking" of his property when the courts refused to address his concern about a neighbor's barking dog. In the other, a Canadian having lost in two other federal courts sought to claim that those courts damaged him when they refused to correct a decision denying his claims against the United States - claims over a disrupted cruise and complaints against Carnival Cruise Lines. Seriously, I'm not making this up.

<http://www.cafc.uscourts.gov/sites/default/files/opinions-orders/17-2238.Opinion.12-8-2017.1.PDF>

<http://www.cafc.uscourts.gov/sites/default/files/opinions-orders/17-2293.Opinion.12-7-2017.1.PDF>

3. In an interesting bankruptcy action out of the 11<sup>th</sup> Circuit, that court concluded yesterday, that when trying to reconcile a Georgia law with the bankruptcy code that the Georgia law prevailed. The facts involved a pawn, where the Georgia law provides that if a person does not redeem the property pawned within a statutorily prescribed grace period the property becomes that of the pawnbroker. The court concluded that Georgia law meant that the pawnbroker was not a secured creditor, but owner of the property.

<http://media.ca11.uscourts.gov/opinions/pub/files/201617468.pdf>

4. In the ever dynamic world of the First Amendment, a panel of the 9<sup>th</sup> Circuit was faced with a suit over school uniforms. Apparently, the parents of two elementary school children were not happy with the decision by the school to require students to wear uniforms. A panel of the court found that strict scrutiny applied and remanded the case to the lower court which granted summary judgment to the school. On this second appeal the panel disagreed with the previous decision and asked the full court to reverse, but couldn't get enough votes for reconsideration, so this panel feeling bound by the earlier decision concluded that the school logo "Tomorrow's Leaders" violated the children's First Amendment rights. There was more to it than my brief description, but seriously, did the Founders of this Country intend to extend the prohibition on Congress from abridging freedom of speech to a school's motivational tools.

<http://cdn.ca9.uscourts.gov/datastore/opinions/2017/12/11/15-15448.pdf>

5. In Hawaii, Maui County commissioners are considering what they can do to address the problem of component chemicals in sunscreens destroying coral reefs. Issues of preemption challenge the county's efforts to protect its coral reefs. According to experts a safe level of the chemical is 64 parts per trillion and the water around the reef last measured at 1,084 parts per trillion. Most agree that we need the reefs as part of a sustainable eco system.

<http://www.mauinews.com/opinion/columns/2017/12/council-is-considering-banning-certain-sunscreens/>

On Thursday, December 14 sign up to learn how to protect your streets from damaging utility cuts. Sign up at [www.imla.org](http://www.imla.org). Not a member? Contact us. Have a great day and make it an inspirational one.