

For the International Municipal Lawyer's Association - IMLA's 5 things to know for December 21st.

Today we celebrate the winter solstice and for those of us in the Northern Hemisphere begin the march towards more daylight.

1. As we reported a few days ago a battle rages between the Archdiocese of Washington and the Metro system over what can appear as advertising on the system's limited public forum. An appeal of the lower court decision denying relief to the Archdiocese was affirmed in an appeal of the denial of the preliminary injunction by the Court of Appeals for the DC Circuit yesterday.

[https://www.cadc.uscourts.gov/internet/opinions.nsf/0/849698F7DDF0D1A4852581FC0067570B/\\$file/17-7171-1709800.pdf](https://www.cadc.uscourts.gov/internet/opinions.nsf/0/849698F7DDF0D1A4852581FC0067570B/$file/17-7171-1709800.pdf)

2. In another First Amendment action, Eugene Volokh in his blog reports on a case from Michigan where an abortion protester was arrested for violating a prohibition against signs on sidewalks. The case should remind local government leaders to warn their police and code enforcement officials regarding how these matters must be handled: Do not refer to the content of the sign when enforcing the law. There's a lot not to agree with when reading Mr. Volokh and in this case, we can question whether the court was correct in finding fault with the ordinance, but once the officer commented on the content of the sign as to why it was illegal – the constitution was violated. We'll have more discussion of this case in our workgroups on code enforcement and civil rights defense.

<http://reason.com/volokh/2017/12/20/court-upholds-right-to-display-signs-dep>

3. Because everyone seems to be slowing down for the holidays, let's look at a case decided a couple months ago from South Carolina. There the state Supreme Court concluded that the State DOT violated that state's constitution when it inspected private bridges in a gated community. Doing so expended public funds for a private purpose – the case is a great reminder that most states prohibit the expenditure of public funds for private purposes.

SLOAN v SCDOT <http://www.sccourts.org/opinions/HTMLFiles/SC/27738.pdf>

4. The Tax Bill passed yesterday includes a minefield of changes including a significant change for employees and employers on the issue of subsidized commuting expenses. You'll need to discuss the issue with your tax advisor, but it looks as if subsidies are now reportable income to the employees who get them. SEC. 13304. LIMITATION ON DEDUCTION BY EMPLOYERS OF EXPENSES FOR FRINGE BENEFITS subsection c.

<https://www.congress.gov/bill/115th-congress/house-bill/1/text/eas2?>

5. In one of the closest elections in the country, the control of the Virginia Legislature is left to chance. A three judge panel counted one challenged vote that tied the election for state delegate which now must be decided by chance. If the Republican wins, that party has a majority. If the Democrat wins, the legislature is tied up at 50-50.

https://www.huffingtonpost.com/entry/virginia-house-of-delegates-tie_us_5a3a8f89e4b025f99e13e47f

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