

For the International Municipal Lawyer's Association - IMLA's 5 things to know for June 6<sup>th</sup>

1. Today, we remember the monumental sacrifice and effort of the Allies as they stormed the beaches of Normandy and began the final push to ending WWII. Each member of the invasion force was given a written note from Dwight Eisenhower that in part read: "You are about to embark upon the Great Crusade, toward which we have striven these many months. The eyes of the world are upon you. The hopes and prayers of liberty-loving people everywhere march with you. In company with our brave Allies and brothers-in-arms on other Fronts, you will bring about the destruction of the German war machine, the elimination of Nazi tyranny over the oppressed peoples of Europe, and security for ourselves in a free world.

"Your task will not be an easy one. Your enemy is well trained, well equipped and battle hardened. He will fight savagely." He kept in his pocket another note that accepted full responsibility for the blame of the failed invasion. Thankfully, that note ended crumpled in his pocket.

2. From California, an intermediate appellate court decided a case with grave facts. A 911 call came into the call center with a whispered plea "help me." Unable to return the call, the dispatch went to the sheriff's office where a deputy called a neighbor of the caller and asked that family to do a welfare check as the deputy was at least an hour away. The family did and stumbled on a horrific murder scene and they themselves were savagely beaten. Surviving, they sued the county and the sheriff. The defense asserted a California law that made volunteers eligible for Workers Compensation. In California Workers Comp precludes suits for covered injuries. The court concluded Workers Comp applied and dismissed the suit.

<http://www.courts.ca.gov/opinions/documents/C076828.PDF>

3. In Ohio, a woman drove through a stop sign and into an intersection where she crashed. She sued the city for failing to clear shrubbery that blocked her view of the stop sign. The Ohio, Supreme Court concluded that immunity applied as the city was under no obligation to clear the sight lines under Ohio law, but only an obligation to repair the sign if it was itself obliterated.

<http://www.supremecourt.ohio.gov/rod/docs/pdf/0/2018/2018-Ohio-2121.pdf>

4. The 3<sup>rd</sup> Circuit has decided that a claim of sexual abuse falls within the protection of the 8<sup>th</sup> Amendment and an inmate can sue under that Amendment for cruel and unusual punishment on a claim of sexual abuse by guards.

<http://www2.ca3.uscourts.gov/opinarch/162939p.pdf>

5. Since everyone is entitled to an opinion, here's mine on the Masterpiece Cake case. Clearly Justice Kennedy was upset by the transcript he read of the Colorado Commission's proceedings in the case. And, rather than push the point regarding the issue before the court Justices Kagan and Breyer went along to say that hearings need to be fair. So what's wrong with that? Well, important to them all was the fact that no other commissioner said anything about the perceived anti-religious bias of one of the commissioners expressed at the hearing. So, now whenever a governmental agency holds a hearing its members must engage in argument with

members over perceived bias? If Justice Sotomayor expresses an anti-police bias, must the other justices pointedly correct her? If Justice Gorsuch expresses a pro-religion bias, must he, too be corrected? Or, does the court recognize that some statements by members of a body amount simply to musings to draw people out? Long story short, this decision will make representing citizen boards quite a challenge where some board members are outspoken proponents of specific issues. Take a look at the lawsuits in Seattle over comments made by Councilmember Kshama Sawant as an example of the problems ahead.

<https://www.seattletimes.com/seattle-news/landlord-drops-remaining-defamation-suit-against-seattle-councilmember-kshama-sawant/>

We're already getting ready for our conference in Houston. Have you heard of the Beer Can House? It's in Houston and you'll want to be registered for a land use tour that goes there. Remember, it's a city without zoning. Oops, you missed the best rates, but don't wait any longer. Register today. Get more from IMLA by joining. Not a member? Contact us. Sign up at [www.imla.org](http://www.imla.org) . Have a great day, remember the sacrifices made for our freedom and make today an inspirational one.