

For the International Municipal Lawyer's Association - IMLA's 5 things to know for June 7th

1. In a major victory for cities, the City of Philadelphia and its great team of lawyers led by City Solicitor Marcel Pratt, First Deputy Craig Straw and Lewis Rosman and his litigation team obtained a decision in the city's favor and against the Justice Department on its unconstitutional efforts to require cities to adhere to its demands to renounce their favorable policies towards immigrants. The court concluded that Section 1373 amounted to "commandeering" under the *Murphy v. NCAA* decision and that DOJ violated the Administrative Procedures Act in its efforts to amend policy by fiat. The court essentially found for the city on all its claims.

http://imla.org/images/links/City_v.Sessions-Final_Opinion.pdf

<https://www.washingtontimes.com/news/2018/jun/6/judge-rules-federal-anti-sanctuary-city-law-uncons/>

2. In Iowa, it's got to be tough practicing law. Last year, the Iowa Supreme Court when asked if limitations barred a suit for contempt of an injunction issued in 1977 decided that limitations applied. Just a few days ago, that same court seemingly said Oops and has now overruled the previous decision. Too bad for those litigants, but in this case the issue involves a battle between a city and a developer. Around 1987, the city and a developer litigated over whether the developer could build some apartments and other improvements on property the developer owned in the city. The city lost and an injunction issued. Could the city ever change its zoning affecting the property – yes, says the court, but under the terms of prior injunction the developer and its assigns must be allowed to build what was contemplated under the injunction.

<https://www.iowacourts.gov/courtcases/452/embed/SupremeCourtOpinion>

3. In another case involving limitations, a family sued for discrimination. They owned property in Eureka Gardens and in or around 2011, the public utility and federal government sought to serve the properties with sewer. All the properties were originally to be served by a gravity line, but ultimately plans changed and five properties were served by grinders and pumps. These systems cost more to operate and the owners must operate and maintain the grinders and pumps. Of the five properties four were owned by African Americans and one of those property owners sued alleging the system design was discriminatory. Suit was filed outside the limitations period if counting from 2011. To overcome this defect the property owners asserted that their daily costs amounted to a continuing violation. Not so, held the 8th Circuit. Claim barred by limitations.

<http://media.ca8.uscourts.gov/opndir/18/06/171265P.pdf>

4. In a major decision involving fines and fees, a 5th Circuit panel has rescinded a previous opinion and issued a new one. In this latest opinion the panel again concludes that the bail polices in Harris County Texas violate due process and equal protection. The panel narrows the due process holding of the lower court and makes a very interesting finding. The panel finds that the Sheriff is not a county policy maker in this case for Section 1983 purposes, but concludes

that the judges are county policy makers even though they themselves retain absolute immunity for their judicial functions.

<http://www.ca5.uscourts.gov/opinions/pub/17/17-20333-CV1.pdf>

5. In Wisconsin and for all our land use attorneys, that state's Supreme Court issued a major decision on vesting this week. A property owner sought to establish a farming operation on 6388 acres of land around a city in Wisconsin. The owner applied to build farm structures on 100 acres of the full acreage. The city rezoned the land to prohibit agriculture. The state had previously made clear that vesting applied to building permits but what about the rest of the land and its use? The WI Supreme Court concluded that vesting applies to all land included in the building permit which extends to the full 6388 acres.

<https://www.wicourts.gov/sc/opinion/DisplayDocument.pdf?content=pdf&seqNo=213845>

We're already getting ready for our conference in Houston. Will the Astro's be in the playoffs? Will they be playing at home while we're there? Make plans now to beat the rush for tickets. Come to our program and learn how Artificial Intelligence will affect your practice of law. Register today. Get more from IMLA by joining. Not a member? Contact us. Sign up at www.imla.org . Have a great day and make today an inspirational one.