

For the International Municipal Lawyer's Association - IMLA's 5 things to know for May 14th

1. Today the Supreme Court concluded that Congress commandeered states in violation of the Constitution when it passed the Professional and Amateur Sports Betting Act. New Jersey attempted to repeal a law that prohibited sports betting in the state and was challenged by the NCAA among others. Losing below, the state sought review in the Supreme Court. The court concluded that Congress cannot act by commandeering state legislative processes, but if it wants to allow or prohibit a specific activity it must do so itself and under the Supremacy Clause states may thereby be regulated. The case also includes an interesting split as to the severability of provisions within the Act and severability jurisprudence. IMLA with the State and Local Legal Center filed an Amicus brief arguing that the law violated the anti-commandeering principle.

https://www.supremecourt.gov/opinions/17pdf/16-476_dbfi.pdf

2. In Washington, the state Supreme Court concluded that a four person majority of the council that introduced, and passed without public hearing a measure affecting one parcel of land had effectively spot zoned the property and the owner could appeal under the state's Land Use Petition Act.

<https://www.courts.wa.gov/opinions/pdf/940053.pdf>

3. Last week, the 9th Circuit concluded that Maricopa County could not escape liability for the acts of its then Sheriff and now pardoned Joe Arpaio. The County had sought to escape liability for the acts of the Sheriff and the court seemed to give something of a cursory analysis of the issue by failing to delve into the historical nature of the office of sheriff and the distinctions between actions the sheriff takes on behalf of the sovereign vs acting as a local official. This issue clouds the underlying theory of Monell of whether counties as administrative arms of the state actually can be sued separate and apart from the state when they act, not on local issues under Home Rule, but as administrators of state policies.

<http://cdn.ca9.uscourts.gov/datastore/opinions/2018/05/07/15-17558.pdf>

4. The 7th Circuit affirmed a decision by the City of Indianapolis to deny approval to Hustler Hollywood under the city's zoning laws. The business claimed its use was a permissible use under the city's law. Perhaps, affecting the city's decision was Hustler Hollywood's proposal to open a store and advertising "erotica" across a driveway from a Chuckie Cheese.

<http://media.ca7.uscourts.gov/cgi-bin/rssExec.pl?Submit=Display&Path=Y2018/D05-07/C:17-3023:J:Bauer:aut:T:fnOp:N:2151262:S:0>

5. The 9th Circuit concluded that Seattle's effort to allow Uber and Lyft drivers to unionize violates the Sherman Anti-trust Act and enjoined the city's law pending trial. The panel held that the state-action immunity doctrine did not exempt the ordinance from preemption by the Sherman Act because the State of Washington had not clearly articulated and affirmatively expressed a state policy authorizing private parties to price-fix the fees that for-hire drivers pay to companies like Uber or Lyft in exchange for ride-referral services. In addition, the active-supervision requirement for state-action immunity applied, and was not met.

<http://cdn.ca9.uscourts.gov/datastore/opinions/2018/05/11/17-35640.pdf>

We're already getting ready for our conference in Houston. We expect our conference to have some of the best and most interesting programming ever and we're working on some interesting options. Register now before the rates go up. Get more from IMLA by joining. Not a member? Contact us. Sign up at www.imla.org . Have a great day and make it an inspirational one.