

For the International Municipal Lawyer's Association - IMLA's 5 things to know for May 15th

1. The Tenth Circuit decided that a Colorado statute as applied to the Plaintiff violated due process because the city did not give notice to the Plaintiff of a legislative action. The issue involves a decision by the city to declare property blighted. It did so as to the Plaintiff's property but did not notify the Plaintiff. The Plaintiff had 30 days to challenge the declaration of blight. The city said no harm no foul, as the statute only allows the city to institute eminent domain proceedings and once instituted the Plaintiff could challenge the blight determination. The Circuit panel held that losing the right to challenge the determination within the 30 day window affected a "property right" of the owner.

<https://www.ca10.uscourts.gov/opinions/16/16-1492.pdf>

2. The 6th Circuit overturned a denial of qualified immunity in a case involving a former deputy sheriff who had been fired. She was believed to have sent an anonymous email to the Sheriff's office with some defamatory allegations. Those allegations in theory violated Michigan law. The matter was turned over to a Detroit police officer to investigate and the officer sought a warrant. The Plaintiff claimed that the warrant included deliberately false information, thus falsifying probable cause. On review the Circuit concluded there may have been mistakes and some interpretative statements, but nothing sufficient to suggest deliberate lying.

<http://www.opn.ca6.uscourts.gov/opinions.pdf/18a0239n-06.pdf>

3. In Iowa, its Supreme Court decided a significant case regarding the authority of an executive branch agency in that state. The court concluded that the legislature had not authorized the Department of Transportation to regulate traffic cameras so that the department's order restricting use of the cameras in Cedar Rapids and Des Moines was improper. "Therefore, we conclude that the IDOT did not have statutory authority to promulgate the administrative rules dictating placement and continued use of ATE equipment by the Cities." Interestingly, the court found specific authority granted to other states' departments as a basis for finding that authority was not given in Iowa and also threw aside an argument that because the state legislature had not overturned the Rule adopted by the department that it impliedly approved of the Rule.

<https://www.iowacourts.gov/courtcases/1271/embed/SupremeCourtOpinion>

4. A federal judge has thrown out an Ocean City Maryland regulation on street performers (ok boardwalk performers). The regulation required performers to apply in advance and limited locations and times when they could perform. Only a federal judge would want to add more chaos to the boardwalk. Apparently, gone are the days when a person could walk down a sidewalk without having to dodge and dart around every performer and solicitor looking for money.

https://www.seattletimes.com/nation-world/judge-boardwalk-performer-restrictions-are-unconstitutional/?utm_source=referral&utm_medium=mobile-app&utm_campaign=ios

5. In South Carolina, cities and counties agreed to settle with on-line travel companies to collect business license taxes due the local governments. Apparently, this is an outgrowth of a suit involving accommodations taxes that had been brought previously.

https://www.postandcourier.com/news/expedia-travelocity-other-online-travel-companies-will-pay-s-c/article_23cab9e6-547e-11e8-b487-8bbd73f11175.html

We're already getting ready for our conference in Houston. Have you heard of the Art Car 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. 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.