

For the International Municipal Lawyer's Association - IMLA's 5 things to know for May 2nd

1. Yesterday, the 9th Circuit proved once again that it can involve itself in the inner workings of a city engaged in public health and safety to erect hurdles that may seem appropriate in the inner sanctum of their chambers, but which have little practical sense. The case involved a homeless man who was keeping about a dozen birds in small boxes and cages on the sidewalk. Animal control, in response to a call found many of the birds in distress and seized them. A couple birds did not exhibit distress but when their caretaker could not identify in detail a place where they could be taken, these birds were also seized. The vet euthanized most of the birds. The court faulted the officers for not leaving the birds who didn't look sick with their caretaker and the vet for euthanizing them without conducting a blood test. Oh, BTW the city has regulations for how birds must be housed which were being violated.

<http://cdn.ca9.uscourts.gov/datastore/opinions/2018/05/01/13-57002.pdf>

2. In Pittsburgh, its City Solicitor recently left to return to private practice. In leaving, she noted that the city might save costs and avoid litigation by seeking legal advice before it enacts legislation or takes other action affecting the public. Most sophisticated business enterprises rely on their attorneys before implementing plans, asking elected leaders to do the same surely sounds reasonable.

<http://www.post-gazette.com/local/city/2018/04/30/Pittsburgh-solicitor-Lourdes-Sanchez-Ridge-recommendations-lawsuits/stories/201804300148>

3. In Mississippi a city installed security cameras in what it identified as "challenged areas". Doing so resulted in an 85% decrease in criminal activity in those areas. The city will be installing more cameras in other areas to continue its efforts to reduce crime.

https://www.seattletimes.com/news/mississippi-city-buys-more-surveillance-after-dip-in-crime/?utm_source=referral&utm_medium=mobile-app&utm_campaign=ios

4. Proving once again that there are different sides to every story, in Asheville, NC a police supervisor is suing city officials for defamation after having been criticized for her handling of an incident involving what has been described as a "police beating." The increased demand for transparency involving police officer discipline may well lead to more cases like this. Be aware and be prepared.

<https://www.citizen-times.com/story/news/local/2018/04/30/asheville-police-beating-lisa-taub-sues-city-libel-slander-johnnie-rush/550913002/>

5. What with a major takings case on the Supreme Court's docket for next term, let me report on an interesting case from Washington where a city downzoned property to address

landslide concerns. The Mayor, however, voted against asserting that the downzoning was only for aesthetic reasons to protect the beautiful vista when approaching the city. A regulatory takings claim was mounted under the Washington Constitution and an intermediate appellate court concluded that under Washington law if the action falls within the police power it is not a regulatory taking but if the action is intended to confer a public benefit, it is a taking. Here the court concluded that there was sufficient evidence not in dispute to ground the decision on protecting the public rather than protecting the vista.

<https://www.courts.wa.gov/opinions/pdf/D2%2049690-9-II%20Published%20Opinion.pdf>

We're already getting ready for our conference in Houston. Have you been to the beer can house? A land use tour will get you there. 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.