

For the International Municipal Lawyer's Association - IMLA's 5 things to know for May 23rd

1. In a major win out of the Colorado Supreme Court, that court concluded that Denver was entitled to immunity in a case where the Plaintiff asserted that a dangerous road condition vitiated the city's immunity. The case arose when a car turned into the path of a motorcycle and the passenger on the motorcycle suffered severe injuries. In Colorado, the court long ago found common law immunity did not apply and the legislature passed a measure that restored immunity in traffic cases so long as the jurisdiction's roads did not deteriorate to a point that they created a dangerous condition to health and safety. The intermediate appellate court construed this to mean that the city needed to maintain the road as new. A wiser and more common sense oriented Supreme Court recognized the fallacy and cost of doing so, but with three dissents. Congratulations to IMLA member Kristin Bronson and her team in Denver for the win and to Sam Mamet of the Colorado Municipal League and the Colorado Intergovernmental Risk Sharing Agency for a great amicus brief.

https://www.courts.state.co.us/userfiles/file/Court_Probation/Supreme_Court/Opinions/2016/16SC851.pdf

2. Lee County Florida has received federal authority to begin using drones to surveil waterways and wetlands for possible mosquito breeding grounds. Under the pilot program, 10 jurisdictions and entities have been given temporary waivers of restrictions against flying over people and will be using drones in a variety of novel applications; in exchange, they will be providing the FAA with data about their activities and experience.

<https://www.routefifty.com/management/2018/05/florida-county-will-use-drones-mosquito-control/148404/>

3. Also from the Colorado Supreme Court, the court concluded that a \$0.20 charge on paper bags amounted to a fee and not a tax making the charge valid under the State's TABOR provision. Congratulations to Aspen City Attorney Jim True and his team for this great win and to Sam Mamet and the Colorado Municipal League as amicus.

https://www.courts.state.co.us/userfiles/file/Court_Probation/Supreme_Court/Opinions/2016/16SC377.pdf

4. In Wyoming, that state's Supreme Court recently concluded that counties did not have authority under zoning laws to regulate fractional ownership of properties. The court focused on zoning as regulating use, not ownership and held the authority to regulate use does not include the power to regulate ownership interests. Local officials often mistake the two concepts and this case can offer a great teaching tool.

<https://services.courts.state.wy.us/Documents/Opinions/2018WY34.pdf>

5. In another learning opportunity, a city manager who was forced out of his job sought to retain use of his cell phone which was to be paid for under his contract by the city. Because the city was paying, the city was enabled to access and share through public information a history of the former manager's calls. Apparently, some shed light on issues of concern to the public and operations of the city. There may be times when using a city provided phone for personal business doesn't make good sense.

<http://www.myrecordjournal.com/News/Meriden/Meriden-News/Scaife-used-city-cell-phone-to-call-former-hires-lawyers.html>

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. 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.