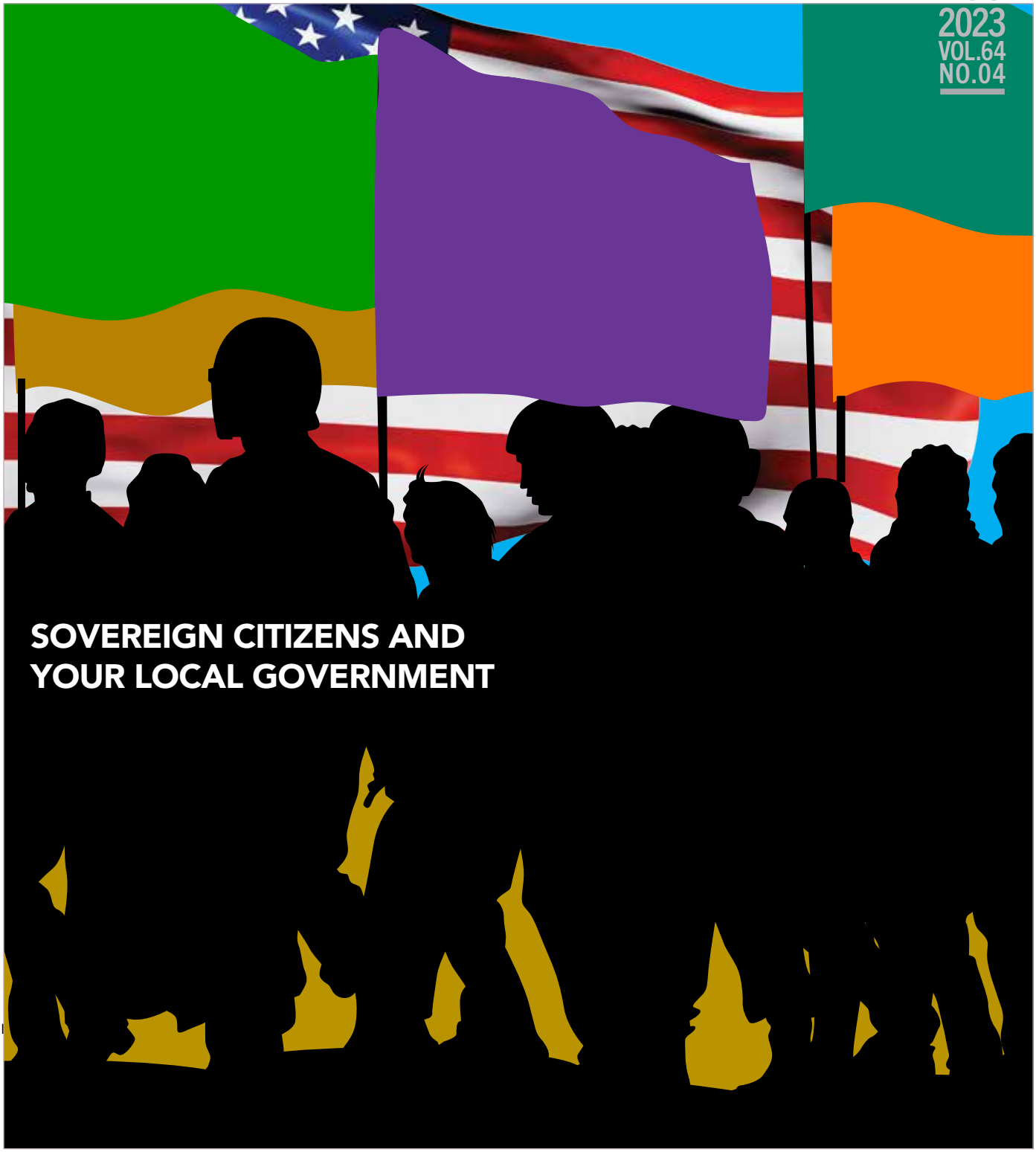
IMLA

Municipal Lawyer

THE JOURNAL OF LOCAL GOVERNMENT LAW

JUL AUG 2023
VOL.64 NO.04



SOVEREIGN CITIZENS AND YOUR LOCAL GOVERNMENT

OFFICERS
President
Lori Grigg Bluhm
City Attorney
Troy, Michigan
President Elect
Rose Humway-Warmuth
City Solicitor
Wheeling, West Virginia
Immediate Past President
Barbara A. Adams
General Counsel
Illinois Local Government Lawyers Association
Treasurer
Jeffrey Dana
City Solicitor
Providence, Rhode Island
General Counsel and Executive Director
Amanda Karras
IMLA, Rockville, Maryland
BOARD OF DIRECTORS
Christopher Balch
City Attorney
Brookhaven, Georgia
Shauna Billingsley
City Attorney
Franklin, Tennessee
Alan Bojorquez
City Attorney
Bastrop, Texas
Beth Anne Childs
Town Attorney
Bristow, Oklahoma
Diana Cortes
City Solicitor
Philadelphia, Pennsylvania
Bradford Cunningham
Municipal Attorney
Lexington, South Carolina
Arthur Gutekunst
Sr. Assistant Corporation Counsel
White Plains, New York
Nina R. Hickson
City Attorney
Atlanta, Georgia
Lori Lein
General Counsel
Alabama League of Municipalities
Wynetta Massey
City Attorney
Colorado Springs, Colorado
Paige Mims
City Attorney
Plano, Texas
Kimberly Rehberg
City Attorney
Durham, North Carolina
Bryan Scott
City Attorney
Las Vegas, Nevada
Todd Sheeran
City Attorney
Herriman, Utah
Jennie Granahan Tarr
Chief Assistant County Attorney
Hillsborough County Hospital Authority
Nancy Thompson
City Counselor
Columbia, Missouri
Randall Van Vleck
Town Attorney
Kirtland, New Mexico
Wendy Walberg
City Solicitor
Toronto, Ontario
Byron Werry
City Solicitor
Regina, Saskatchewan
Jeannine Williams
Chief Assistant City Attorney
St. Petersburg, Florida
Susana Alcala Wood
City Attorney
Sacramento, California

CONTENTS

JULY / AUGUST 2023

MONUMENTAL UNCERTAINTY: THE SUPREME COURT, SECTARIAN SYMBOLS, STATUES, AND CITIES

By: Jeffry Dorocak, Assistant City Attorney, Las Vegas, Nevada

The Establishment Clause produces myriad questions when local governments place, or allow the placement of, monuments expressing religious themes on public property. The author discusses the potential pitfalls, the Supreme Court touchstones, and other principles which should be considered as municipalities evaluate allowing sectarian symbols.

PAGE 6

SOVEREIGN CITIZENS AND YOUR LOCAL GOVERNMENT

By: Judith El Masri, Executive Vice President, The Randle Law Office, Houston, Texas

As Americans debate the merits of liberal or conservative policies, the proper functioning of legislative, executive, and judicial branches, and the appropriate balancing of state versus federal authority, another faction disavows the very legitimacy of any government. Ignoring authority and challenging laws at every turn, the sovereign citizen presents unique challenges for local government attorneys.

PAGE 10

ETHICAL OBLIGATIONS OF MUNICIPAL ATTORNEYS WHEN A COUNCILMEMBER IS SUED PERSONALLY

By: Meredith Ladd, City Attorney, Carrollton, Texas

A lawsuit filed against a local councilmember on a personal basis presents particular nuances for the government attorney. A firm understanding of the relevant rules of ethics is mandatory to avoid violations.

PAGE 16



DEPARTMENTS

24 AMICUS

2023 Supreme Court Term Preview: No Rest for Local Government Attorneys

By: Amanda Karras, IMLA Executive Director and General Counsel

The upcoming calendar promises more cases with huge implications for localities.

24 PRACTICE TIPS

Local Government Branding: Protecting Your Municipality's Goodwill

By: Cyril Vidergar, Assistant City Attorney, City of Fort Collins, Colorado

How to safeguard the value in local government symbols and taglines.

26 TELECOMMUNICATIONS

Local Governments and Robocalls: Updated Rules Restricting Artificial and Prerecorded Calls

By: Gerard Lederer and Gregory Caffas, Best Best & Krieger, Washington, DC

New restrictions require additional vigilance.

32 INSIDE CANADA

Unconvincing Evidence, "Local Boards," Personal Information, and More

By: Monica Ciriello, Director of Municipal Law and Licensing Compliance, City of Hamilton, Ontario

Recent cases of interest.

STAFF

EXECUTIVE EDITOR Amanda Karras

EDITOR Erich R. Eiselt

ART DIRECTION AND PRODUCTION Trujillo Design

MARKETING Caroline Storer

Views appearing in *Municipal Lawyer* are those of the authors. Publication of articles in this magazine does not reflect a direct or implied endorsement of an author's views. © Copyright 2023 by the International Municipal Lawyers Association (IMLA). All rights reserved. IMLA is a non-profit professional association of municipal lawyers from across the United States and Canada. It offers its members continuing legal education courses, research services, litigation assistance on amicus briefs and an information- sharing network in the field of municipal law. *Municipal Lawyer* is IMLA's membership magazine, published bi-monthly. For membership information contact: IMLA, 51 Monroe Street, Suite 404, Rockville, Maryland 20850, phone: (202) 466-5424, or e-mail: info@imla.org. Contributions of articles are welcome; email eeiselt@imla.org. *Municipal Lawyer* reserves the right to refuse or edit manuscripts submitted for publication.

PRESIDENT'S LETTER



BY: LORI GRIGG BLUHM
City Attorney, Troy, Michigan
and IMLA President

IMLA and Continuing Our Legal Education

If you are reading this letter, you are already tapped into some of the great resources offered through IMLA membership which enhance our professional acumen. The *Municipal Lawyer* is just one tool highlighting new developments and emerging trends found in our very diverse spectrum of legal practice. IMLA also offers excellent continuing legal education in a variety of different forums, and facilitates fantastic networking opportunities at our in-person seminars. The ABA Model Rules reinforce the commitments that we all swore to uphold with our attorney oaths. We are all called to be competent and diligent and cultivate knowledge of the law. Most of us also have Continuing Legal Education mandates, which ought to enhance our municipal practice.

It is especially critical for public servant lawyers to continue to seek meaningful and targeted continuing legal education. There are so many different specialties we need to master in the municipal law practice, and it seems that the laws are changing more rapidly now than previously. Some of these legal changes result from the public's erosion of trust of government during the past few years. This is exacerbated by high profile reports in the news media, publicizing criminal charges against corrupt public officials- elected and appointed. In order to combat public skepticism, we need to immerse ourselves in continuing legal education, with an emphasis on ethics. When placed in challenging situations, this allows us to demonstrate that we are called to be of service, as opposed to seeking privilege or power. Our commitment is to advance the public good, help our communities, and improve society, and we can best accomplish this through awareness, empathy, and foresight, which can optimally be achieved when we are prepared and also have a supportive community. IMLA provides us with this community-for those who have been practicing for a number of years and have a few cautionary tales, and also for those who are just venturing into the municipal law practice. IMLA has intentionally added focus on newer attorneys, which has poised us in a good position for the future.

There is a New Members Committee and also a Listserv dedicated to those persons under forty years of age, or with less than seven years of practice. IMLA has also established a mentorship program which continues to thrive, providing great benefits for both mentees and mentors. There is a Canadian Scholarship for lawyers under age 40 that provides financial assistance for in-person attendance at an IMLA event. The Charles W. Thompson Jr. Local Government Law Scholarships provide encouragement to law students who select careers in local government law. These applicants are provided with an opportunity to demonstrate their scholarship through the submission of written articles on cutting edge topics, which are then disseminated to the entire IMLA membership. And I'm thrilled about the inaugural Dewitt F. "Mac" McCarley Scholarship designated for dedicated municipal attorneys with less than three years of practice. This scholarship provides an opportunity for our newest professional members to experience firsthand all of the benefits of attending an IMLA Annual Conference. Although the turn-round time for the McCarley applications is short for this inaugural year, the excellent program and the fabulous location in La Quinta, California is expected to inspire many talented applicants.

Hopefully we will also see you at the Conference in La Quinta. There's still time to register and plan to attend! For those with more limited budgets, please consider a subscription to the Kitchen Sink Program, which is fantastic webinar-based programming provided by experts in the field; its low cost makes this a tremendous value. There are also several working groups with a more focused subject area or demographic, such as elected county attorneys or the newly created DEI Committee led by Deanna Shahnami, IMLA's Assistant General Counsel and Director of Diversity, Equity and Inclusion. These working groups allow for an exchange of ideas and war stories. There's also the Listserv, where our members quickly give and receive advice from other members on novel issues. IMLA also has embarked on a new Local Government Legal Center, formed with the National League of Cities, the National Association of Counties, and the Government Finance Officers Association to expand our advocacy on behalf of government before the U.S. Supreme Court, the federal circuits, and state supreme courts. In that role, IMLA is educating local government officials (in addition to municipal attorneys) on the impact of significant U.S. Supreme cases.

I continue to be amazed by how much IMLA's small but dynamic professional staff, in connection with our many volunteers who fill important committee and advisory roles, can offer to our membership. ML