International Municipal Lawyers Association
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IMLA NEWS
Issue 15 – August 21, 2020

Legislation: Law Applicable to Single County with 400,000 or More Residents is General Law and Comports with State Constitution

Spokane County v. State, no. 19-97739 (Wa. Aug. 20, 2020).

Rebuffing an argument by Spokane County that the Washington State legislature violated a State Constitution "general laws" provision when it mandated that all noncharter counties with populations exceeding 400,000 must have five commissioners, the Washington Supreme Court upholds a law which effectively applies only to the County.

Currently, all noncharter counties in Washington State, including Spokane County, are required to have three commissioners unless that number is increased by county voter approval. Spokane County residents have repeatedly voted on and rejected such an expansion—most recently in 2015. However, in 2018, the State legislature enacted SHB 2887, increasing the number of commissioners in certain noncharter counties from three members to five. SHB 2887 requires that "[b]eginning in 2022, any noncharter county with a population of [400,000] or more must have a board of commissioners with five members." It also states that such counties must "use district nominations and district elections for its commissioner positions" and that they must fund a redistricting committee in charge of forming the five new commissioner districts.

Currently, the only noncharter county with more than 400,000 residents is Spokane County. In 2019, various Spokane County commissioners and the Washington State Association of Counties (collectively hereinafter "Spokane County") filed for declaratory judgment in Spokane County Superior Court, arguing that requiring five county commissioners instead of three, to hold district-only commissioner elections, and to fund a redistricting committee, violates article XI, section 4 of the Washington Constitution, which in part requires the legislature to implement a uniform system of county

government. Spokane County further argues that SHB 2887 violates article XI, section 5, which requires the legislature to provide for county commissioner elections by general and uniform laws.

Specifically, Spokane County argued that SHB 2887's classification of counties by population exceeds what article XI, section 5 authorizes, and no other noncharter county is subject to SHB 2887's requirements. The trial court granted summary judgment for the State.

The Washington Supreme Court affirmed. "[A] statute is presumed to be constitutional and the burden is on the party challenging the statute to prove its unconstitutionality beyond a reasonable doubt." The Washington court looked to California, given that article XI, section 4 of the Washington Constitution is "identical in every respect, subject matter, context, words and punctuation marks" to California's constitution calling for a uniform system of county government:

> If Washington State's provision calling for county uniformity is identical to California's, then we conclude that Washington State's legal understanding of "system" is also the same as California's. Synthesizing these terms, a "uniform system" at the time article XI, section 4 was drafted meant an organized plan or scheme that applied equally to everyone once put under a specific category within that scheme. Contrary to Spokane County's belief, these terms do not mean that each county in Washington needs to have the exact same setup as the neighboring county. Rather, the legislature has always been authorized to put forth a scheme that categorizes counties by characteristics that could hypothetically apply to all of them—a scheme that would "operate[] equally upon all persons who are brought within the relations and circumstances provided for."

In response to Spokane County's contention that the law affects only Spokane County because it is the only county that has 400,000 people or more in population, the court countered that other Washington noncharter counties might in the future surpass 400,000 residents.

Any law enacted under section 5 of the Washington Constitution must be a "general law." The court found that SB 2887 was such a measure: "A special law is one which relates to particular persons or things, and a general law is one which applies to all persons or things of a class. . . . SHB 2887 clearly 'applies to all persons or things of a class' as it applies to all noncharter counties with 400,000 people or more in population. SHB 2887 does not specify certain counties by name such that it would relate to a 'articular person[] or thing[]' but, rather, creates a scheme that would generally apply to all who fall within that scheme. . . .'The law is not unconstitutional because, at the time of its enactment, only one county happened to be at that time within one of the classifications.'"

LINK

Qualified Immunity: Officers Reasonably Feared Imminent Threat of Physical Harm when Firing into Closet

Birkeland v. Jorgensen, no. 19-2172 (8th Cir. Aug. 20, 2020).

While affirming a grant of summary judgment to defendants where officers shot and killed a man who had stabbed a policed dog while hiding in a bedroom closet, the Eighth Circuit reverses the lower courts' determination that such use of deadly force was objectively unreasonable.

Neighbors of John Birkeland (Birkeland) called the Roseville, Minnesota (City) 911 line in February 2016 to report sounds of disturbance in Birkeland's one-bedroom apartment, including yelling and breaking glass. At 10:00 p.m. City police officers were dispatched to perform a welfare check; en route, they were informed that while Birkeland had a misdemeanor warrant for his arrest, the warrant did not allow for an arrest in his home after 10:00 p.m. When officers arrived, they repeatedly asked Birkeland to open the door, but he replied "no" each time, adding that he was "okay," "fine," or "good."

Over the next 15 minutes, the officers attempted to re-engage, telling Birkeland they could not leave until they knew he was okay. They told him that although they did not want to, they would have to enter forcibly if he continued to refuse responding. After several more minutes of silence from Birkeland, the officers used a battering ram to force open the door. By this time, a K-9 officer and his dog Otis, a Belgian Shepherd, had arrived.

The officers entered and eventually found Birkeland crouched in the bedroom closet. The K-9 officer testified that he could not (1) ascertain if there was another person in the closet; (2) tell if there was a weapon in the closet; or (3) see Birkeland's hands. When Birkeland refused to come out after being warned about the dog, Otis was let into the closet. The dog bit Birkeland's right knee, causing several linear cuts and ten puncture wounds. Birkeland responded by stabbing the left side of Otis's face with a knife, causing Otis to yelp. Within seconds, two officers fired total of four shots at Birkeland, who was hit twice in the chest and once in the neck, killing him.

The officers testified then when they shot at Birkeland, they feared for their safety and the safety of the other officers. The trustee asserted that the officers' entry into the apartment was unlawful, that deploying the police dog was objectively unreasonable for a welfare check, and that Birkeland had a right to defend himself against the objectively unreasonably force used by the officers.

The district court granted summary judgment in favor of the officers and the City on all claims except for the reasonableness of the use of deadly force and related state-law claims. On appeal, the officers identified three issues: (1) were they entitled to qualified immunity on their use of deadly force; (2) were they entitled to official immunity on the

state-law claims for assault, battery, wrongful death, and vicarious liability; and (3) was the City entitled to vicarious official immunity with regard to the state-law claims for assault, battery, wrongful death, and vicarious liability. The trustee's cross-appealed, seeking review of the grant of qualified immunity.

While the court would ordinarily lack jurisdiction over a denial of summary judgment 'because such an order is not a final decision,'" it had limited jurisdiction to review the denial of summary judgment based on qualified immunity "to the extent that it turns on an issue of law." This also opened the possibility of reviewing other claims to the extent they were "inextricably intertwined" with an issue over which the court had jurisdiction to review.

Qualified Immunity-Deadly Force: Turning to the first issue–whether the facts, taken in the light most favorable to Birkeland, supported a finding that the officers violated Birkeland's clearly established constitutional rights when they shot and killed him–Eight Circuit precedent compelled the conclusion that the officers' use of deadly force here was not a violation of a clearly established right:

> Regardless of whether Birkeland's movement toward the officers was voluntary, in light of the close proximity between the officers and Birkeland's location in the closet, Birkeland's failure to comply with Officer Jorgensen's commands to drop the knife, and Birkeland's stabbing of the police dog in the face with a knife, Birkeland posed a threat of serious physical harm to the officers and we cannot say that their "use of deadly force, even if just over the line of reasonableness, violated a clearly established right." The district court erred in denying the officers qualified immunity on the deadly force claim.

Official Immunity: In Minnesota, the official immunity doctrine provides that a public official charged by law with duties which call for the exercise of his judgment or discretion "is not personally liable to an individual for damages unless he is guilty of a willful or malicious wrong.'" Malice under Minnesota law means an intentional act that a public official "had reason to believe is prohibited." The Circuit held that, taking the trustee's allegations as true, a reasonable fact finder could not conclude the officers' conduct in this case was willful or malicious The undisputed facts established that Birkeland was in possession of a knife, he refused to comply with the officer's commands to drop the knife, he was in a confined area in close proximity to the officers, and he used the knife to stab a police dog in the face. While the question of willful or malicious conduct is typically a jury question, under these undisputed facts, the court concluded there was no genuine issue of material fact for a jury to decide and the officers are entitled to official immunity as a matter of law.

Vicarious Liability: Because the officers' discretionary decisions were entitled to official immunity, the City had no vicarious liability: "Vicarious official immunity protects the City from liability arising from the officers' use of deadly force."

DISSENT: Judge Kelly dissented in part, finding that questions of fact precluded the majority's drawing the conclusion that the officers did not violate Birkeland's clearly established rights when they shot and killed him in his home after they arrived for a welfare check. Applying *Graham v. Connor's* reasonableness calculus, Judge Kelly found ample room to counsel against deadly force: "As the court acknowledges, 'the parties dispute, and the video does not show, whether Birkeland [then] started to come out of the closet on his own accord or because he was being pulled out by Otis.'" For Kelly, as the district court had found, these facts presented a jury question as to whether the officers' stated fear for their safety was reasonable.

LINK

Seizure: Community Caretaking Function does not Eliminate Need for Probable Cause in Mental Health Seizure

Graham v. Barnette, no. 19-2512 (8th Cir. Aug. 17, 2020).

Affirming the lower court, the Eighth Circuit grants qualified immunity to officers who entered the plaintiff's residence and placed her in an ambulance to be taken for mental evaluation, but clarifies that such a seizure must henceforth be supported by probable cause that the subject is a danger to herself or to others.

On May 25, 2017, Teresa Graham (Graham) called Minneapolis (City) 911 several times, first reporting a man smoking marijuana behind her home and then complaining that officers had not responded to other reports she had filed. That evening, an anonymous informant claiming to be Graham's cousin called 911, reporting that she had called him at work to threaten him and his family. He requested a "welfare check" because he believed Graham had a history of mental health issues.

Two officers responded, one of whom recorded the encounter on body camera. Graham demanded to know who requested the welfare check, claimed she was being slandered, retrieved her phone to videotape the officers, accused them of harassing her, and demanded that they leave—which they did, apologizing for disturbing her.

By 9:00 p.m., Graham had called 911 another three times, complaining about harassment, sounding "agitated and aggressive" and not making sense. Sergeant Shannon Barnette (Barnette) returned Graham's phone call. Based on that conversation and Graham's actions throughout the day, he accompanied two officers to take her into custody for an emergency mental health evaluation as authorized by Minnesota's Civil Commitment and Treatment Act ("MCCTA"), which permits an officer to seize a person for an emergency mental health evaluation "if the officer has reason to believe . . . that the person is mentally ill . . . and in danger of injuring self or others if not immediately detained."

Graham initially refused them entry and called 911 to complain, but after an extended discussion relented. The officers escorted her to a waiting ambulance. After a hospital examination concluded that, while she exhibited "some paranoid behavior" and was "royally pissed," she was "somewhat rational" and, according to the examining physician, not "hold-able."

Graham sued under § 1983, alleging that Barnette and the other officers violated her First and Fourth Amendment rights by conducting an unreasonable search and seizure, using excessive force, damaging her property, and arresting her in retaliation for protected speech. She also brought a *Monell* claim, alleging the City's policy regarding seizures for emergency mental health evaluations caused the officers' unconstitutional conduct, and brought state-law claims against the officers for false imprisonment, battery, assault, and negligence.

The district court entered summary judgment in favor of the officers, granting qualified immunity on Graham's Fourth Amendment claims because the officers had not violated a clearly established constitutional right when they entered Graham's home and seized her. It also found that Graham had not established a triable issue of fact regarding retaliatory arrest, and granted the officers statutory and official immunity on Graham's state law claims. Finally, the lower court entered summary judgment for the City because the City's policy concerning seizures for emergency mental health evaluations was not facially unconstitutional and Graham failed to plead facts sufficient to support a claim for failure to train or supervise.

The Eight Circuit affirmed.

Warrantless Entry: Graham argued that the officers had wrongfully entered her home without a warrant, and without probable cause that she presented an imminent threat; however, probable cause was not the applicable standard in this context. While the Supreme Court has held that warrantless entry into the home without consent is presumptively unreasonable, "[T]he ultimate touchstone of the Fourth Amendment is reasonableness . . ." *Brigham City v. Stuart*, 547 U.S. 398, 403 (2006). The Eighth Circuit has previously held that an officer may make a warrantless entry of a home "[when] the officer has a reasonable belief that an emergency exists requiring his or her attention," *United States v. Quezada*, 448 F.3d 1005, 1007 (8th Cir. 2006), and the "reasonable belief" required under this exception "is a less exacting standard than probable cause."

The facts here indicated law enforcement's exercise of its community caretaking function. The officers were not acting to detect, investigate, or acquire evidence relating to a crime; they were responding to potentially dangerous circumstances concerning Graham's mental health. Because the officers could reasonably believe there was an emergency requiring attention, the government's interest in determining whether Graham was a threat to herself or others outweighed her interest in being free from the governmental intrusion. See *City & Cty. of San Francisco v. Sheehan*, 575 U.S. ---, 135

S. Ct. 1765, 1774-75 (2015) (concluding police "did not violate any federal right" when, after being summoned because the plaintiff began acting erratically and threatened her social worker, they "knocked on the door, announced that they were police officers, . . . informed [the plaintiff] that they wanted to help her," and then entered the plaintiff's private room on the basis of providing "emergency assistance").

Seizure: Graham alleged that, even if the warrantless entry was reasonable, the officers violated her Fourth Amendment rights when they seized her without probable cause to believe she was a danger to herself or others. The district court had found that the Fourth Amendment's prohibition against unreasonable seizures requires that officers have probable cause of dangerousness, but it granted the officers qualified immunity because the right at issue was not clearly established. On appeal, the officers and the State of Minnesota as amicus curiae contended that the Circuit should hold that the officers did not violate Graham's Fourth Amendment rights because, while acting in their community caretaking function, they did not need probable cause to justify seizing Graham for a mental health evaluation.

The Eighth Circuit declined to override the probable cause requirement in this instance, agreeing with the district court's evaluation and conforming to the majority of Circuits nationwide: "At least nine of our sister circuits have held that the Fourth Amendment requires probable cause that a person is mentally ill and dangerous to herself or others for a seizure for an emergency mental health evaluation to be reasonable. . . . These courts have uniformly determined that 'a seizure of a person for an emergency mental health evaluation raises concerns that are closely analogous to those implicated by a criminal arrest, and both are equally intrusive.'"

These cases informed the Eighth Circuit's analysis:

> [W]e now make explicit that which has long been implicit in our caselaw and align our circuit with the unanimous consensus in all other circuits. We conclude that only probable cause that a person poses an emergent danger—that is, one calling for prompt action—to herself or others can tip the scales of the Fourth Amendment's reasonableness balancing test in favor of the government when it arrests an individual for a mental health evaluation because only probable cause constitutes a sufficient "governmental interest" to outweigh a person's "interest in freedom.

Given that this standard had not been clearly enunciated at the Eighth Circuit when the seizure occurred, the officers were entitled to qualified immunity on the seizure count. And it was not clear, as Graham argued in the alternative, that no reasonable officer could have believed it was lawful to seize her under the circumstances. "We disagree. We do not think that only a 'plainly incompetent' officer could conclude he had arguable reasonable belief."

Retaliatory arrest: Graham's retaliatory arrest claim also failed. While there was temporal proximity between her various complaints to the City's 911 line and the

officers' appearance at her door, that factor was insufficient to establish the necessary but-for relationship between Graham's speech and her subsequent seizure. "To survive summary judgment, a plaintiff must show that a reasonable jury could find that a retaliatory motive of the officers was a 'but-for cause' of the adverse action, 'meaning that the adverse action against the plaintiff would not have been taken absent the retaliatory motive.'" Here, there was no evidence of retaliatory animus.

***Monell* claims:** Finally, the Circuit denied Graham's claims that the City's policy concerning seizures for an emergency mental health evaluation was facially unconstitutional or revealed deliberate indifference to her constitutional rights and a failure to train. The City's policy allows an officer to take a person with mental illness into custody "if there is a reason to believe the person poses a threat to himself or others, and further directs that "[t]he threat does not have to be imminent." The district court had initially denied summary judgment for the City on this point, determining that the phrase "reason to believe" was inconsistent with the Fourth Amendment's probable cause requirement for a mental health seizure. After the City filed a motion for reconsideration, the district court determined that it had "made a manifest error of law" by failing to construe the phrase "reason to believe" to require probable cause.

The Circuit agreed. "'Reason to believe' is commonly used to mean probable cause." Its own precedent stated that "Probable cause exists since a prudent man would have had reason to believe that this defendant had committed a felony," and other circuits had concluded similarly. And the fact that the threat did not have to be imminent did not make the policy facially unconstitutional. "[W]e do not think—nor have we held—that government officials must wait to intervene until an individual is a split second away from harming herself or others."

LINK

Speech: Incendiary Personal Facebook Posting by City Employee about Tamir Rice is Matter of Public Concern

Marquardt v. Carlton, no. 19-4223 (6th Cir. Aug 19, 2020).

The Sixth Circuit reverses and remands a lower court decision which had found that postings on a City employee's Facebook page expressing satisfaction at the killing of Tamir Rice did not address a matter of public concern.

Fourteen months after Cleveland (City) police shot and killed twelve-year old Tamir Rice (Rice) at a City recreation center when he brandished a toy gun, a post appeared on the Facebook page of Jamie Marquardt (Marquardt), a captain in the Cleveland Emergency Medical Services (EMS):

> Let me be the first on record to have the balls to say Tamir Rice should have been shot and I am glad he is dead. I wish I was in the park that day as he terrorized innocent patrons by pointing a gun at them walking around acting bad. I am upset I did not get the chance to kill the criminal fucker.

Someone by the name of Kevin, apparently one of Marquardt's cousins, posted a comment in reply. A second post then appeared on Marquardt's page:

> Stop Kevin. How would you feel if you were walking in the park and some ghetto rat pointed a gun in your face. Would you look to him as a hero? Cleveland sees this felony hood rat as a hero . . .

The posts were visible only to those whom Marquardt had friended on Facebook, and he removed them within hours. He later claimed an acquaintance with access to his phone made the posts while he slept. Yet they quickly became a subject of discussion among Marquardt's EMS colleagues, leading EMS Commissioner Nicole Carlton (Carlton) to cite the messages in a complaint filed with the City. Two weeks later, Carlton notified Marquardt that he had been terminated, advising him that his speech violated City policies and "did not involve a matter of public concern."

Marquardt responded with a § 1983 suit, alleging that he was terminated in retaliation for his protected speech in violation of the First and Fourteenth Amendments. Concluding that the posts amounted to speech on a matter of private interest, and not of public concern, the district court granted summary judgment to the defendants.

On appeal, Marquardt challenged both the district court's grant of summary judgment and its denial of Marquardt's motion to alter or amend that judgment. Ordinarily, the Circuit noted, it would review the entry of summary judgment de novo, and employ a more deferential standard—abuse of discretion—to review a motion to alter or amend the judgment. "But because Marquardt's motion sought reconsideration of the district court's grant of summary judgment, we review both that decision and the underlying summary judgment decision under the same de novo standard."

Retaliation claim analysis: The court employed a now-familiar analysis to assess Marquardt's speech-based retaliation claim: whether the employee engaged in protected speech; whether the action taken against the employee would discourage an individual of "ordinary firmness" from engaging in such activity; and whether the employee's protected speech was "a motivating factor" behind the adverse action. The first of these questions--whether the employee engaged in protected speech—involves a separate two-part test: whether the speech was on a "matter of public concern," and if it was, did the employee's free speech interests outweigh the efficiency interests of the government as an employer.

Part one of this two-part inquiry—the public concern analysis--was the seminal issue before the Circuit. The defendants had already conceded that Marquardt's post was not

made pursuant to his employment, but instead as a private citizen, and the district court had not passed upon how to balance the interests of Marquardt and the EMS.

Public concern: The Circuit disagreed with the lower court, finding that the Facebook post addressed a matter of public concern. While the district court concluded that the speech related to the author's personal interest in Rice's death, not to a matter of public concern, speech involves a matter of public concern when it can be "fairly considered as relating to any matter of political, social, or other concern to the community." *Connick*, 461 U.S. at 146. To resolve the public/private distinction, the court looks to the "content, form, and context of a given statement, as revealed by the whole record," and whether speech is shocking or inappropriate is irrelevant to whether it concerns a public matter.

The chronology was relevant. Not long before the posts on Marquardt's Facebook page, a grand jury had declined to indict the officer who shot Rice. And just days before the posts appeared, the incident's aftermath again made national news when the City was found to have billed Rice's family for his ambulance ride, a decision for which the City later apologized.

> The ensuing posts on Marquardt's Facebook page made certain assertions about the well-documented shooting that plausibly relate to the officers' handling of the encounter and the resulting community reaction. In the posts, the author seems to assert that Rice's shooting was justified because he was "terroriz[ing]" people by pointing a gun at them. The posts also assert that Rice, due to his conduct at the time of the killing, should not be viewed as a hero by Clevelanders. **Given the widespread local and national scrutiny of the Rice shooting, these aspects of the posts directly relate to a 'subject of general interest and of value and concern to the public.'**

Obviously, the posts said a good deal more, intermixed with profanity and racially insensitive language was an expression of pleasure at Rice's death, and even reflected, as the district court found, "the author's desire to kill a twelve-year-old boy." But expressions of opinion, even distasteful ones, do not become matters of personal interest simply because they are phrased in the first person or reflect a personal desire. Said differently, the posts addressed a "subject" one could envision "stepping up to the microphone" to discuss in the traditional public square.

Nowhere was there any suggestion that Marquardt (or whomever made the posts) was impacted personally or professionally by the Rice shooting. To be sure, Marquardt was employed by the EMS, and that unit had a role in responding to the Rice shooting. But there was no allegation that Marquardt was personally involved in that response.

The form of the speech—posting on Facebook--also cut in favor of deeming the speech as addressing a matter of public concern. While the posts were visible only to Marquardt's friends, "the very genesis behind Facebook and other social media platforms is to allow one the opportunity to share messages and opinions with a wide

audience. That reality, in fact, has made social media perhaps the primary venue for exchanging ideas on public issues."

The defendants countered that Marquardt was terminated for only the portion of the posts expressing regret that the author was not able to kill Rice himself. That assertion, however, was at odds with their answer to Marquardt's complaint, where they admitted Marquardt's allegation that he was terminated for both posts in their entirety. And even the incendiary comments were nevertheless touching on a matter of public concern. The Circuit revisited *Snyder,* where the Supreme Court held that picketers at a military funeral were speaking on a matter of public concern by wielding signs saying "God Hates the USA/Thank God for 9/11," "Thank God for IEDs," "God hates fags," "You're Going to Haaaaaaaaell," and "God Hates You." "If those expressions—which arguably express glee at the death of a rank-and-file soldier— involve matters of public concern, so too does the speech here."

Protected speech: The Circuit did not resolve whether the posts amounted to protected speech. "In resolving this latter question, the district court will need to address whether Marquardt's free speech interests outweigh the interest of the Cleveland EMS in the efficient administration of its duties." It cited the "well-settled rule" that the government, when acting as an employer, may regulate employee speech to a greater extent than it can that of private citizens, including to discipline employees for speech the employer reasonably predicts will be disruptive.

However, the Circuit did address two remaining issues. First, because the district court had found the speech not to involve a matter of public concern, it had dismissed Marquardt's failure-to-train claim against the City; this dismissal was reversed, leaving the failure-to-train claim for further consideration. Second, the district court had granted defendants' motion for costs, due to their prevailing-party status; given the reversal on the principal issue, they were no longer prevailing parties and the award of costs was likewise reversed.

LINK

Utilities: Municipal Utility's Requirement that Renters Obtain Landlord's Guaranty of Payment Satisfies Rational Basis Test

REI Enterprises LLC v. Village of Dorchester, No. 19-870 (Neb. Aug 7, 2020).

Reversing the court below, the Nebraska Supreme Court finds that a municipality utility's requirement that renters applying for electric service must first obtain a guaranty by the property's landlord is rationally related to the locality's legitimate interest in collecting from a category of customers who have historically been

more likely than owners not to pay utility bills, and does not constitute a violation of equal protection.

The court's final paragraph aptly sums the 11-page opinion:

> In consideration of all of the above, we find that ensuring collection of utility bills was a plausible policy reason for requiring tenants to obtain landlord guarantees but not requiring residential owners to obtain third-party guarantees. We further find that this classification was based on facts which Dorchester could rationally have considered to be true and that the classification was sufficiently related to the goal of ensuring payment of utility bills so as not to render the treatment arbitrary or irrational. Accordingly, ordinance No. 684's requirement that a residential tenant obtain a landlord's guarantee for initiating utility services does not violate the Equal Protection Clauses of the U.S. and Nebraska Constitutions and the district court erred.

LINK

Thank you to Barry Shanoff for notifying IMLA of the Nebraska decision-

THIS JUST IN: Maryland High Court Upholds Baltimore's 300-Foot Food Truck Law

Earlier this week, the Maryland Court of Appeals upheld Baltimore's rule requiring food rucks to be at least 300 feet from brick and mortar food establishments. "The City acted rationally when it balanced the competing interests of mobile vendors and brick-and-mortar restaurants and enacted the 300-foot rule to further its legitimate interest in promoting the vibrancy of its commercial districts," Judge Jonathan Biran wrote in the court's opinion.

IMLA salutes Acting Baltimore Solicitor Dana Moore on the win.

LINK