

ABA Government Law News

State and Local

A 60-Second Update on What's Happening

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Go directly to federal court; need not stop at state court first: Developers have long sought removal of the jurisdictional bar imposed on takings claims against state and local governments by the 1985 Williamson County case, 473 U.S. 172. Various takings bills attempting to do that have faltered. Another bill, the [Private Property Rights Implementation Act](#), H.R. 4272, grants permission to skip state court when seeking compensation. Under the current Congress and President, the bill stands a better chance than its predecessors of becoming law.
<http://thomas.loc.gov/cgi-bin/query/z?c109:HR4772>:

Query: Why do cities (and taxpayers) fund pro sports when it isn't worth it? See "Ballpark Figures: Sports economists agree that cities--and taxpayers--get close to nothing from spending public money on sports teams. What they haven't figured out is why we're still doing it." Boston Globe, By Drake Bennett, March 19.

http://www.boston.com/news/globe/ideas/articles/2006/03/19/ballpark_figures/

Thanks to Plantezen for the article: <http://www.planetizen.com/node/19122>

Army says it's safe to swim in Hawaii, so join us at Annual Meeting. The Army has announced that thousands of tons of chemical munitions dumped off O'ahu during after World War II "do not currently pose an immediate threat to the health and safety" of the people of Hawai'i." "[Army Sees no toxic threat in sea dump.](#)" Honolulu Advertiser by Will Hoover, March 18. So, please join us in Hawaii for the [Annual Meeting](#). <http://www.abanet.org/statelocal/home.html>
<http://www.honoluluadvertiser.com/apps/pbcs.dll/article?AID=/20060318/NEWS01/603180338/1190/NEWS>

State's discrimination in issuing specialty license plates ok. The Tennessee legislature authorized the issuance of a specialty license plate bearing the logo "Choose Life." The profits are split between the state and New Life Resources, Inc. The legislature rejected Planned Parenthood's request for a "Pro Choice" license plate. A facial challenge by the ACLU prevailed in the district court but lost in the Sixth Circuit, which held that this "exercise of government one-sidedness . . . may be ill-advised," but the First Amendment does not prevent a state from taking policy positions and using private parties to disseminate the message. [ACLU v. Tennessee](#). <http://www.ca6.uscourts.gov/opinions.pdf/06a0099p-06.pdf> Equal protection anyone?

Interlocutory appeal of denial of qualified immunity: In 1996, the Supreme Court held that successive interlocutory appeals are allowable to resolve legal issues regarding qualified immunity. The issue, said the Court, may "require more than one judiciously timed appeal." Behrens v. Pelletier, 516 U.S. 299. But, does the failure to appeal the denial of a motion to dismiss on qualified immunity grounds preclude a later appeal a denial of a motion for summary judgment? No, says the Tenth Circuit, at least where the argument in the summary judgment

motion relies on evidence developed during discovery. See [Robbins v. Wilkie](#), 433 F.3d 755 (10th Cir.2006). <http://www.kscourts.org/CA10/cases/2006/01/04-8016.htm>

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