

ABA Government Law News

State and Local

A 60-Second Update on What's Happening

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Missouri Voter ID law invalid: In *Weinschenk v. State* the Missouri Supreme Court held the state's voter identification law violated the state constitution. Applying strict scrutiny, the court found the measure would burden the right to vote of some 3 to 4% of the state's population and was not narrowly tailored to serve a compelling state need.

<http://www.courts.mo.gov/Courts/PubOpinions.nsf/0f87ea4ac0ad4c0186256405005d3b8e/cd66cf7b2479b16d86257209005f0e7a?OpenDocument>

NAFTA-Based Challenge Public Employee Collective Bargaining Ban: U.S., Canadian, and Mexican labor unions have filed a complaint against North Carolina and the U.S. under the North American Agreement for Labor Cooperation (NAALC), a side agreement to the North American Free Trade Agreement (NAFTA). The unions claim that North Carolina's ban on collective bargaining by public employees violates NAALC's requirement of "high labor standards," including freedom of association and the right to collective bargaining.

<http://www.uswa.org/uswa/program/content/3472.php>

<http://www.newsobserver.com/102/story/499782.html>

Redevelopment Justifies Denying Non-Profit Uses: The operator of a non-profit mental health clinic challenged the denial of a special permit to locate in a commercial district. The city wanted taxpaying users in that district. *En banc*, the 7th Circuit reversed itself and rejected the claim that ADA "reasonable accommodation" obligated preferential treatment to the disabled. After examining the history of "reasonable accommodation" under the ADA, FHA, and the Rehabilitation Act of 1973 the court held that the ADA requires "but for" causation. The city's refusal inconvenienced the disabled but was not based on their disability. *Wisconsin Community Services v. City of Milwaukee*, 2006 WL 2729694 (7th Cir.2006).

<http://www.ca7.uscourts.gov/tmp/XB0H5LVW.pdf>

The link is sometimes uncooperative. If so, go to <http://www.ca7.uscourts.gov/fdocs/docs.fwx> and search case #04-1966

A Post-Katrina Cottage Industry: The national demand for affordable housing may take notice of New York designer Marianne Cusato's plans for a 534 sq. ft., 3 bedroom house costing as little as \$27,000. The steel frame, fiber-cement-board siding house is rated to withstand a 140mph hurricane wind. It is termite-resistant, non-combustible, immune to rot and readily expandable. Lowe's will sell these "Katrina Cottages" in the Gulf Coast area, and Florida, California, and Connecticut are interested, among others. Too late for the three little pigs.

<http://www.planetizen.com/node/21459>

http://www.cusatocottages.com/index_content.html

SEC Ruling a Warning to Municipal Bond Attorneys: A D.C. Circuit appeal is pending from the SEC's ruling that a bond attorney violated the antifraud provisions of the Securities Act of 1933 in "negligently rendering an unqualified opinion" on the tax-exempt nature of school district

general obligation notes. The ruling could establish an affirmative obligation for due diligence for attorneys issuing tax opinions on municipal securities. The ruling is a warning to municipal attorneys to tread carefully in this complicated area. www.sec.gov/litigation/opinions/33-8641.pdf

Trick or Treat, Sign Codes Encounter Halloween Apparel: Raleigh, NC warned the owner of a costume shop not to stand outside wearing a Halloween costume sold inside. Sign codes that include personal costumes are not new but can cross the line on limits on free expression. Last month the 9th Circuit found a Redmond, WA ban on portable signs unconstitutional as applied to a bagel shop employee standing outside with a directional sign: the ordinance was overbroad and did not directly advance the government's legitimate interest due to its numerous exemptions. *Ballen v. City of Redmond*, [http://www.ca9.uscourts.gov/ca9/newopinions.nsf/3E7522AF9F2E55F2882571EA00556739/\\$file/0435606.pdf?openelement](http://www.ca9.uscourts.gov/ca9/newopinions.nsf/3E7522AF9F2E55F2882571EA00556739/$file/0435606.pdf?openelement)

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