



Winter 2010

New Laws Affecting Illinois Local Governments

In addition to the amendments to the Open Meetings Act and the Freedom of Information Act, several other new laws affecting local governments have recently taken effect. Some of the highlights include:

- Public Act 096-0856 amended the Illinois Municipal Code to provide priority status to municipal liens filed for costs incurred in carrying out specified maintenance activities on properties defined as "abandoned residential properties." The maintenance activities include the removal of weeds or grass, infected trees and garbage and debris, pest extermination and boarding up and otherwise securing abandoned properties.
- Public Act 096-0130 makes driving while using an electronic communications device, including a wireless telephone, PDA or portable computer, a traffic offense. The use of these devices is not prohibited when in a hands-free or voice-activated mode, when parked on the shoulder of a roadway, or when the vehicle is stopped and in neutral or park.
- Public Act 096-0131 prohibits the use of a wireless telephone while driving in a school speed zone or in a highway construction speed zone. This prohibition does not apply to the use of a wireless telephone for emergency purposes or in a voice-activated mode.
- Public Act 096-0478 allows for the installation of automated railroad grade crossing enforcement systems that produce a recorded image of a vehicle violating traffic signals during the approach of a train. A local ordinance must be enacted requesting that the Illinois Commerce Commission establish the system for a municipality to obtain an enforcement system.
- Public Act 096-0072 clarifies that a person

with disabilities, issued a special decal or device for parking, is the only authorized holder of the decal or device. A police officer is authorized to seize the decal or device when it is being used by any other person as a violation of the Illinois Vehicle Code.

- Public Act 096-0356 amended the Campus Security Enhancement Act of 2008 requiring that the inter-disciplinary and multi-jurisdictional campus violence prevention plans also include coordination and communication with governmental agencies and school districts that are contiguous to the higher education institution.
- Public Act 096-0345 amended the Abandoned Newborn Infant Protection Act, which allows the parent of a newborn infant to relinquish the child to a safe environment without liability, by expanding the definition of newborn infant to a child age thirty days or less. The expanded Act also now defines a qualifying fire station to which the newborn infant may be relinquished as any fire station with at least one staff person.
- Public Act 096-0355 amended the Senior Citizens Homestead Exemption established under the Property Tax Code by establishing that a previously-granted homestead exemption shall continue when the qualifying person subsequently becomes a resident of an assisted living facility, if the residence continues to be occupied by the qualifying person's spouse or remains unoccupied but owned by the qualifying person.

We provide this information to you as a source of information about developments in the law. This article should not be construed as legal advice or opinion. For more information about anything contained in this article, please call a Del Galdo Law Group attorney.

Below is a summary of some of the dates impacting municipalities for the first quarter of 2010. These dates and requirements are not comprehensive and may vary depending on each municipality's calendar year and population.

- Within 6 months after the close of the fiscal year, each municipality shall conduct an annual audit of accounts and funds.
- An annual appropriation ordinance shall be enacted in the first quarter of the fiscal year. Municipalities that have adopted the budget officer system shall pass the annual budget before the start of the fiscal year.
- By March 1st, every police department is required to submit racial profiling information and other data collected from traffic stops during July through December of the previous year to IDOT.
- By March 1st of the calendar year the tax is collected, a municipality may levy a tax for payment of principal and interest on general obligation or limited bonds.
- By March 31st the municipality shall publish the zoning map, unless there are no changes from the previous year.
- By April 1st, municipalities imposing or discontinuing the retailer's occupation tax must file a certified copy with the Department of Revenue.
- Prior to either March 20th or September 20th a municipality may enact, modify, or repeal the Simplified Municipal Telecommunications Tax and file a certified copy of the ordinance with the Department of Revenue.

Cook County Circuit Judge Orders Disclosure of Anonymous Internet Poster

As the 2010 election cycle begins, both elected officials and anonymous internet posters need to be aware of a recent ruling by Cook County Circuit Court Judge Jeffrey Lawrence. Last year, Buffalo Grove Village Trustee Lisa Stone ("Stone") filed a petition for discovery against Paddock Publications, the publisher of the Daily Herald, under Illinois Supreme Court Rule 224. Her petition sought to obtain the identity of an unknown internet poster using the online name "Hipcheck 16." That anonymous individual made defamatory statements about Stone's son on the Daily Herald website.

Eventually, Paddock Publications answered Stone's Petition and identified Comcast as the internet

service provider and the IP address of "Hipcheck 16." After several hearings, Judge Lawrence obtained from Comcast the name and street address of "Hipcheck 16." During those hearings, the online poster "Hipcheck 16" entered the legal proceedings as John Doe and through counsel objected to the disclosure of his name and address. In support of non-disclosure, Doe asserted that his identity is shielded from disclosure by the First Amendment.

Judge Lawrence, however, disagreed with Doe's argument and ruled in favor of disclosure. In his order, Judge Lawrence held that the right to speak anonymously, on the internet or anywhere else, is not absolute and does not protect speech that would



otherwise not be protected. The right to free speech must be balanced against the right of the offended party to seek damages. Judge Lawrence further ruled that he was unaware of any authority "which holds that a man may utter a lie and escape the consequences." Judge Lawrence's decision is currently under review by the Illinois Appellate Court. We will continue to monitor the progress of this case.

Super Lawyers

Michael Del Galdo Named as Rising Star by Illinois Super Lawyers



Michael Del Galdo has been named by Illinois Super Lawyers as a "Rising Star" for 2010. Only 2.5 percent of the lawyers in Illinois are named as Rising Stars. The recognition as a "Rising Star" in the field of law is the result of a detailed and comprehensive selection process by Super Lawyers Magazine which includes evaluation of 12 indicators of peer recognition and professional achievement. "I am very honored and humbled by the recognition. My commitment remains to provide the best legal representation to clients in order to better serve the communities and their constituents," said Del Galdo. Del Galdo is currently general and special counsel to some of the largest units of government in the Chicago metropolitan area and also represents numerous local, county, and state elected officials. As a general counsel, Del Galdo's governmental clients

have combined annual budgets in excess of \$1 billion. His work also includes acting as legal counsel and advisor on political campaigns. A graduate of DePaul University College of Law, Del Galdo is also a frequent lecturer on municipal government.

New Regulation of an Employer's Use of Genetic Information

The Illinois Genetic Information Privacy Act (the "Illinois Act") was recently amended to expand and define the prohibited uses of genetic information by an employer. On November 21st, 2009, federal regulations concerning an employer's use of genetic information, found in the Genetic Information Nondiscrimination Act of 2008 ("GINA") also took effect. GINA is aimed at establishing a national uniform standard for the use of genetic information in both the health insurance and employment arenas.



"Genetic information" is information related to the genetic testing of an individual or an individual's family member, including the manifestation of a disease or disorder in an individual's family member. Genetic information does not include information about the sex or age of a person. Physical examinations, urine and blood tests aimed at screening for drugs or alcohol, and tests for the presence of HIV also do not meet the definition of a genetic test and are specifically excluded under the Illinois Act.

The Illinois Act and GINA impose duties and restrictions upon an employer with respect to the use of genetic information. Most significantly, these Acts restrict the use of any genetic information regarding an employee or job applicant, or his or her family member, with respect to any employment decision. Employers are also generally prohibited from requiring, or even requesting, that an employee or job applicant undergo genetic testing or otherwise provide genetic information to the employer as a condition of employment.

Employers are also required to treat as confidential the genetic information of any employee. Under GINA, this genetic information must be treated as a confidential medical record, maintained pursuant to the standards for medical records prescribed by the American's With Disabilities Act. Additionally, genetic information maintained by State agencies and local health authorities is specifically exempted by the Illinois Act from copying and inspection under the Freedom of Information Act ("FOIA").

This article should not be considered legal advice. Please contact the Del Galdo Law Group for additional information about the Illinois Genetic Information Privacy Act or the Genetic Information Nondiscrimination Act of 2008 and how these Acts may apply.

Highlights...

- Recently, in the case of *Donna Novickas v. Proviso Township High School District #209* ("PTHS"), Cook County Circuit Court Judge Thomas Quinn granted PTHS's Motion to Dismiss Plaintiff's 2nd Amended Complaint with prejudice. Plaintiff contended that she was improperly demoted in violation of state law. Judge Quinn found that none of her claims could be successfully plead. K. Austin Zimmer and Eric T. Stach handled the case for PTHS.
- In the recent appeal *Town of Cicero v. Illinois Labor Relations Board* ("ILRB") and the *Metropolitan Alliance of Police* ("MAP"), the Illinois Appellate Court ruled in favor of the Town and reversed the ILRB's finding that police lieutenants employed by the Town are not supervisors. The Court held that the lieutenants are supervisors within the meaning of the Illinois Public Labor Relations Act based on their supervisory authority to discipline their subordinates and are prohibited from unionizing as supervisors. Holly L. Tomchey, assisted by Veronica Bonilla-Lopez and Cynthia S. Grandfield, handled the appeal for the Town.



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Del Galdo Law Group, LLC focuses its practice in municipal law, litigation, school law, economic development, real estate and land use, administrative law and government relations.



The Attorney's Corner

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Michael Castellino practices in the areas of municipal law, land use, economic development and incentives, zoning, licensing and permitting. He represents units of local government and their various boards and committees, as well as business entities and individuals interacting with government.

Mike obtained his Bachelor of Arts in Government from the University of Notre Dame in 1991 and his Juris Doctorate from the University of Notre Dame Law School in 1994. He began his practice at the Chicago office of Baker & McKenzie. He later moved to Wildman, Harrold, Allen & Dixon LLP in Chicago, where he became a partner in that firm's Governmental Affairs Practice Group. Mike joined Del Galdo Law Group in November 2009.

Mr. Castellino's experience includes serving as general counsel to a regional planning agency and as general and special counsel to several suburban Cook County municipalities and zoning boards. For private sector clients, he has negotiated economic incentive agreements and other contracts with municipalities, successfully advocated on their behalf before suburban planning and zoning commissions, obtained zoning relief from the City of Chicago's Zoning Board of Appeals and the City Council's Committee on Zoning, and appeared before the Chicago Department of Administrative Hearings on matters such as building code violations, business license violations, and City tax disputes.

Mike is a member of the Chicago Bar Association and its Local Government Committee, the Illinois State Bar Association and the Notre Dame Club of Chicago. He regularly attends events of the Illinois Tax Increment Association (ITIA) and was a speaker at the 2009 Fall Conference. He has also worked closely with the South Suburban Mayors and Managers Association and the Chicago Southland Economic Development Corporation.