FLORIDA MUNICIPAL ATTORNEYS ASSOCIATION

FLORIDA MUNICIPAL LAW REPORTER

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October - December 2008

Editor's Note: The following case law summaries were reported from October 1, 2008, through December 31, 2008.

Section 1. Recent Decisions of the Florida Supreme Court

CONSTITUTIONAL LAW – PLEDGING CREDIT – JACKSONVILLE AVIATION AUTHORITY, A PUBLIC ENTITY, DID NOT BECOME A JOINT OWNER WITH A PRIVATE ENTITY IN VIOLATION OF ARTICLE VI, SECTION 10, OF THE FLORIDA CONSTITUTION, AND HAS NOT GIVEN, LENT OR USED ITS CREDIT TO AID A PRIVATE ENTITY IN VIOLATION OF ARTICLE VII, SECTION 10, OF THE FLORIDA CONSTITUTION, BY ENTERING INTO AN OPTION TO GROUND LEASE AND PARTICIPATING GROUND LEASE AGREEMENT WITH A PRIVATE COMMERCIAL DEVELOPMENT COMPANY FOR THE COMPANY'S LONG-TERM USE OF VACANT LAND OWNED BY AUTHORITY.

This case was a review of two questions of Florida law certified by the U.S. Court of Appeals for the Eleventh Circuit. The questions arose out of a challenge to a ground lease contract (contract) entered into by the Jacksonville Aviation Authority (JAA) and a private entity. The questions are whether the contract violated the prohibitions against a public entity entering into a joint ownership agreement with a private entity and the prohibition against a public entity giving, lending or using its credit to aid a private entity. In determining whether the contract violated the constitutional prohibition against joint ownership, the court looked to whether JAA incurred any financial obligation as a result of the contract and at the nature of the relationship created by the contract. The court found the contract did not create a financial obligation for JAA nor did it create a relationship that indicated joint ownership. In determining whether JAA pledged public credit, the court contemplated not just the use of public funds but also the imposition of a new financial liability and a direct or indirect obligation to pay the debt of a third party. Under the court's definition of credit, the contract did not cause a violation of the Florida Constitution. *Jackson-Shaw Company v. Jacksonville Aviation Authority*, 33 Fla. L. Weekly S972 (Fla. December 18, 2008).

COUNTIES – ORDINANCES – FIREWORKS REGULATION – "EVIDENCE OF FINANCIAL RESPONSIBILITY" PROVISION OF ORDINANCE, WHICH REQUIRES THAT SELLERS OF FIREWORKS OBTAIN AND MAINTAIN $1,000,000 SINGLE-LIMIT LIABILITY INSURANCE POLICY, DOES NOT CONFLICT WITH CHAPTER 791, FLORIDA STATUTES.

Litigants in this dispute seek review of the decision of the 5th DCA in *Phantom of Brevard, Inc. v. Brevard County* on the ground that it expressly and directly conflicts with the decision of the 2nd DCA in *Phantom of Clearwater, Inc. v. Pinellas County*. The conflict centers on the inclusion of "Evidence of Financial Responsibility" provisions in local ordinances that regulate the sale of fireworks. The 5th DCA held that the financial responsibility provisions were in conflict §791.001, F.S., regulating the sale of fireworks. The 2nd DCA rejected the contention that the financial responsibility provisions conflicted with §791.001, F.S., because a seller could comply with the financial responsibility requirement without violating §791.001, F.S. The Supreme Court of Florida held that the "Evidence of Financial Responsibility" provisions were not in conflict with §791.001, F.S., because the counties were choosing to legislate in an area where the Legislature chose to remain silent. Further, the court found that the "Evidence of Financial Responsibility" provision enacted by counties did not cause a non-uniform application of the statute because the matter is not addressed in the statute. *Phantom of Brevard County, Inc. v. Brevard County*, 33 Fla. L. Weekly S1002 (Fla. December 23, 2008).

Section 2. Recent Decisions of the Florida District Courts of Appeal

MUNICIPAL CORPORATIONS – EMPLOYEES – RETIREMENT BENEFITS – WHERE EMPLOYEE ENTERED CITY'S DEFERRED RETIREMENT OPTION PLAN (DROP) IN RELIANCE UPON RETIREMENT ADMINISTRATOR'S MISTAKEN ADVICE TO EMPLOYEE REGARDING THE AMOUNT OF RETIREMENT BENEFITS HE WOULD ACCUMULATE BY HIS MANDATORY RETIREMENT DATE UNDER DROP – WHERE RETIREMENT BOARD FASHIONED A REMEDY BASED ON AVOIDANCE OF

Expense to Board and City Rather than Harm Caused to Employee, It Departed from Essential Requirements of Ordinance and Awarded an Inequitable Adjustment.

The plaintiff was advised by the city's assistant finance manager (manager) that the amount of money he would receive from the DROP program upon his retirement would be significantly greater than he actually received upon his retirement. The appellate division of the 3rd circuit remanded this issue back to the city retirement board (board) after determining that the plaintiff had detrimentally relied on the advice of the manager. The board then fashioned a remedy that was "cost neutral" for the board and city. The plaintiff again appealed. The court held that when the board fashioned a remedy based on cost neutrality to the board and city rather than based on the harm done to the plaintiff they awarded an inequitable adjustment. *Retirement Board of the City of Coral Gables, et al. v. Pinon*, 33 Fla. L. Weekly D2322 (Fla. 3d DCA October 1, 2008).

Mandamus – Municipal Corporations – Public Records – Costs – Petitioner Who Made Public Records Request and Then Refused to Pay the Charges for Copying the Records Was Not Entitled to Writ of Mandamus Seeking Access to Public Records, Where City Compiled Copies of Records and Informed Petitioner of Charges and Then Refused to Furnish Additional Public Records until Petitioner Paid for First Copies Ordered.

The plaintiff appealed the denial of a writ of mandamus. After compiling documents requested by the plaintiff, the city informed the plaintiff that the duplication costs were in excess of $200. The plaintiff refused to pay the cost and he was not given the documents that he requested. The plaintiff then attempted to order additional documents, but was told that he had to pay for the first set of documents before the city would make any more documents available to him. The court held that the city was not required to do any more than it did and the plaintiff was not entitled to a writ of mandamus. *Lozman v. City of Riviera Beach*, 33 Fla. L. Weekly D2530 (Fla. 4th DCA October 29, 2008).

Injunctions – Counties – Taxation – Ad Valorem – Error to Enter Declaratory Judgment and Injunction Precluding the County's Use of County Ad Valorem Tax Funds to Operate Fire/Rescue Dispatch Service Which Provided Dispatch Fire/Rescue and Other Services to Unincorporated Areas and Participating Cities and Included Incentive Program Which Furnished Dispatch Equipment to Participating Cities.

Palm Beach County appealed a declaratory judgment and injunction precluding the county's use of county ad valorem tax funds to operate its fire/rescue dispatch system (CDS). The plaintiff cities contended that the county's funding of CDS services with countywide revenues amounted to a double taxation. On appeal the court addressed whether the cities met their burden of showing that CDS provided no real and substantial benefit to the cities, and whether the county's acts constituted an indirect transfer of power from the cities to the county, and whether such acts were unconstitutional. The court held that the cities failed to prove that the services dispatched by CDS provide no benefit, and the program is not an indirect transfer of power because CDS was not completely replacing the cities' dispatch services. The court found the program constitutional and reversed the lower court's declaratory judgment. *Palm Beach County v. City of Boca Raton, et al.*, 33 Fla. L. Weekly D2534 (Fla. 4th DCA October 29, 2008).

Inverse Condemnation – Injunctions – Water Management Districts – Action by Nonprofit Corporation Which Operates Museum and Nature Center Against Water Management District Which Owns Swamp Property Upstream of Plaintiff's Property, Alleging that District's Issuance of Permits Allowing Farming Operations to Engage in Flood Irrigation Allowed Excess Flood Irrigation onto District's Property and Then Downstream onto Plaintiff's Property, Resulting in Killing of Trees on Plaintiff's Property.

The plaintiffs appealed the trial court's dismissal of complaints against the Southwest Florida Water Management District. The plaintiffs made a claim of inverse condemnation on the grounds that a flood irrigation permit issued by the district caused flooding on their property that caused damages. The trial court dismissed the complaint on the basis of sovereign immunity and on the finding that the plaintiff failed to state a cause of action because they did not allege fraud or abuse of discretion. On appeal the court found that the plaintiff's inverse condemnation claim was inappropriately dismissed because a constitutional claim cannot be barred by a legislative grant of immunity. Further, the appeals court determined that the trial court erred in determining that the complaint failed to state a cause of action for an injunction. *Crowley Museum and Nature Center, Inc. v. SWFWMD*, 33 Fla. L. Weekly D2570 (Fla. 2d DCA October 31, 2008).

Taxation – Ad Valorem – Homestead Exemption – Homeowner Who Transferred His Home to a Trust, Transferred the Trust to His Heirs in Exchange for a 99-Year Lease on the Property, and Continued to Live in the Home Was Entitled to Receive Homestead Exemption.

The Monroe County property appraiser appealed a final summary judgment in favor of a homeowner. The homeowner created a trust using his home as the res. The homeowner then transferred the trust to his heir in exchange for a 99-year lease of the home. Even though he continued to reside in the home, the property appraiser denied his homestead exemption. The homeowner then petitioned the Value Adjustment Board (VAB) for his homestead exemption, which the VAB granted. The property appraiser then challenged the VAB's determination in circuit court. The circuit court and appeals court affirmed the decision of the VAB holding that the plain meaning of §196.031 and §196.041, F.S., clearly provide that a 98-year-plus lease of a residential parcel permanently occupied as a residence qualifies for a homestead exemption. *Higgs v. Warrick*, 33 Fla. L. Weekly D2644 (Fla. 3d DCA November 12, 2008).

Municipal Corporations – Code Enforcement – Circuit Court, Acting in Its Appellate Capacity, Departed from Essential Requirements of Law When It Vacated a Final Administrative Order Assessing a Fine for Code Violations and a Mitigation Order Reducing that Fine.

The City of Miami petitioned for the review of a decision that vacated a final administrative enforcement order assessing a fine for code violations and a mitigation order reducing that fine. At an administrative hearing, a property owner pled guilty to a code violation for the performance of work on a residential structure without a final permit. After failing to correct the violation, fines totaling more than $100,000 were assessed. At a later mitigation hearing, the board reduced the fines to $10,000. The property owner appealed and the court reversed both the enforcement and mitigation orders. The appellate court held that the enforcement order was outside the scope of the circuit court's review because the statute of limitations had lapsed. The mitigation order was overturned by the circuit court on the property owner's claim that they were denied the opportunity to cross examine the city's code enforcement officer. The appellate court held that the mitigation order was improperly vacated because the property owner failed to object to any evidence given by the code enforcement officer and never requested to cross examine the code enforcement officer. *City of Miami v. Cortes and Sabina*, 33 Fla. L. Weekly D2691 (Fla. 3d DCA November 18, 2008).

Public Meetings – Government in the Sunshine – School Boards – School Board, Which Had Final Decision-Making Authority in High School Rezoning, Violated Sunshine Law by Taking School Board Members on a Bus Tour to Allow Them to Physically View Neighborhoods that Would Potentially be Affected by Rezoning and to Look at Possible Bus Routes that Might be Utilized Under Various Proposed Rezoning Plans.

The appellants appealed a final order of the trial court denying final injunctive relief against the Seminole County School Board (board). The appellants argued that the board violated Florida's Sunshine Law while conducting fact finding during a high school rezoning process. The fact-finding trip was conducted on a bus and, as a precaution, the members were physically separated from each other by rows of seats. Also, the evidence presented indicated that no board business was discussed on the bus. The trial court held in favor of the board on the basis of the board's assertion the trip fell under the Sunshine Law's fact-finding exemption. However, the appellate court held that the fact-finding exemption does not apply to governmental authorities with final decision-making authority. The appellate court refused to reverse the decision of the trial court because the board's violation of the Sunshine Law was not egregious and was corrected by the board's subsequent public hearings on the issue. *Finch v. Seminole County School Board*, 33 Fla. L. Weekly D2697 (Fla. 5th DCA November 21, 2008).

Eminent Domain – Counties – Inverse Condemnation – County's Action in Diverting Water Across Private Property to Alleviate Flooding to Neighboring Property Caused When a Lake Overflow Drain Became Clogged After Hurricane and in Allowing the Water Diversion to Continue After Emergency Passed Constituted a Taking of the Property for a Public Purpose.

On appeal, the court considered the appellant's inverse condemnation claim which required the court to consider whether the county engaged in a taking of private property when it diverted water across the appellant's property and allowed the water diversion to continue after an emergency passed. After years of attempting to divert water away from the appellant's property, the county was successful in its efforts in 2004. However, under emergency conditions in 2005 the county diverted flood waters across the appellant's property. After the emergency subsided the county allowed the water diversion to remain. In defense against the appellant's inverse condemnation claim, the county asserted that the water diversion restored the natural flow of water that occurred prior to any attempts to divert water away from the appellant's property. The appellate court said that the restoration of the natural flow of water was irrelevant. The appellate court held that the diversion of water conferred a public benefit and that the action constituted a taking. *Hemby Trust v. Walton County*, 33 Fla. L. Weekly D2710 (Fla. 1st DCA November 21, 2008).

Municipal Corporations – Action for Declaratory and Injunctive Relief Filed by Police Officer Whose Employment Had Been Terminated and Who Was Seeking to Enforce Decision by Administrative Hearing Officer

Ordering Reinstatement and Back Pay – Judgment for Police Officer Consistent with the Decision of the Hearing Officer.

The City of West Melbourne (city) decided to terminate Byron Parker without pay from the West Melbourne Police Department. The city operates under a policy that entitles employees who are terminated without pay to a hearing to decide if the termination was proper. The hearing officer, who was appointed by the city, determined that the city failed to prove that Park's termination was for just cause and Park should be reinstated with back pay. The city then appealed the decision of the hearing officer to the circuit court. The circuit court quashed the decision of the hearing officer stating that Park was not entitled to have the hearing officer weigh the evidence or the credibility of witnesses. Park then appealed the lower court's decision. The appellate court rejected the city's limitations on the hearing officer. Park was reinstated and awarded back pay. *Park v. City of West Melbourne*, 33 Fla. L. Weekly D2777 (Fla. 5th DCA December 5, 2008).

Public Employees – Retirement – Disability In-Line-of-Duty Retirement Benefits – Division of Retirement Erred in Denying Employee's Claim for In-Line-of-Duty Disability Retirement Benefits Where Psychiatrist's Non-contradicted Testimony Supports Finding that Employee's Loss of Duties After He Had Been Terminated and Rehired Aggravated His Mental Condition and Led to His Inability to Work.

Reggie Jernigan was forced to retire due to a psychological condition he claimed was work related. The Division of Retirement (division) approved regular disability retirement benefits, but denied his application for in-line-of-duty disability retirement benefits. It was undisputed that Jernigan was totally and permanently disabled. The issue is whether he proved that "(1) his injury was work-related, and (2) his injury was a substantial, producing cause or an aggravating cause of his permanent total disability." The court held that the division did not properly consider that debilitating anxiety or stress over loss of duties can be considered a work-related injury, even if there are significant outside stressors. The undisputed evidence did not support the division's denial of Jernigan's in-line-of-duty benefits. *Jernigan v. State of Florida, Department of Management Services, Division of Retirement*, 33 Fla. L. Weekly D2441 (Fla. 1st DCA October 21, 2008).

Eminent Domain – Inverse Condemnation – Limitation of Actions – Action by Church Seeking Compensation for Department of Transportation Use of a Portion of Property Which Had Been Dedicated to Public for Public Roadway Use in 1990 as a Condition of Church Receiving Plat Approval from County Was an Unconstitutional Condition of the Plat Approval and Therefore Void.

New Testament Baptist Church appealed a final judgment in a condemnation suit brought by the Florida Department of Transportation (FDOT). The only issue on appeal is whether it was error in granting FDOT's motion for summary judgment on the church's counterclaim for inverse condemnation on the basis that the inverse condemnation claim was barred by the statute of limitations. The church previously dedicated 7.5 acres to the public for roadway use as a condition of receiving a plat approval from the county to build a church and school. In 2005, this eminent domain proceeding was brought to condemn a separate parcel for a road widening project, and the church's inverse condemnation counterclaim sought compensation for FDOT's use of the previously dedicated 7.5 acres for the road project. The church claimed that it still owned the 7.5 acres because the dedication was an unconstitutional condition of the plat approval and therefore, void. The court found that the condition for the plat approval was not void but only voidable because it affected only the church and did not harm the general public. Further, the court found that the church ratified the condition when it failed to take any action to challenge the condition and accepted the benefits of the condition by developing the property. *New Testament Baptist Church of Miami Inc. v. State of Florida*, 33 Fla. L. Weekly D2463 (Fla. 4th DCA October 22, 2008).

Municipal Corporations – Ordinances – Comprehensive Plan Amendment – Initiative or Referendum Process to Challenge Ordinance Amending City's Comprehensive Plan and Providing for Rezoning for a Certain Parcel of Land – Amendments Can't Be Said to "Affect" Parcels of Land Not Directly Subject to the Amendment.

This is a final appeal of a final judgment in a challenge to the enactment of ordinances by the City of Lake Worth. The challenged ordinances amended the city's comprehensive plan and rezoned a four-acre parcel of land. The respondent sought to invoke the referendum process set forth in the city's charter in order to challenge the ordinances. The availability of the referendum process was subject to §163.3167 (12), F.S., which provides that the referendum process is prohibited for comprehensive plan amendments that "affect" five or fewer parcels. The court held that amendments cannot be said to "affect" parcels of land not directly subject to the amendment. In the instant case, the amendment only affects the single four-acre parcel and therefore cannot be subjected to the referendum process. *City of Lake Worth, et al. v. Save our Neighborhood, et al.*, 33 Fla. L. Weekly D2476 (Fla. 4th DCA October 22, 2008).

Counties – Comprehensive Plan – Development Orders – Standing – Statute Should Not Be Interpreted as Requiring Harm Different in Degree from Other Citizens – Statute Requires Plaintiff to Have a Particularized Interest of the Kind Contemplated by the Statute, Not a Legally Protectable Right.

The county's approval of a resort's application for expansion and amendment of the county comprehensive plan was challenged by the plaintiffs. The claim was twice dismissed for lack of standing. The trial court dismissed the second amended complaint with prejudice, concluding that the plaintiffs had failed to sufficiently allege that their interests were adversely affected by the project in a way not experienced by the general population and because of an insufficient "nexus" of allegations. On appeal the court concluded that a person's standing under section 163.3215, Florida Statutes, depends on: (1) whether the interests the person alleges are "protected or furthered by the local government comprehensive plan;" if so, (2) whether those interests "exceed in degree the general interest in community good shared by all persons"; and (3) whether the interests will be adversely affected by the challenged decision. The allegations of the second amended complaint demonstrated that each of the plaintiffs had an interest that was greater than "a general interest in community good shared by all persons" and therefore the plaintiff had standing. *Save the Homosassa River Alliance , et al. v. Citrus County Florida, et al.*, Fla. L. Weekly D2490 (Fla. 5th DCA October 24, 2008).

Section 3. Recent Decisions of the United States Supreme Court

None reported.

Section 4. Recent Decisions of the United States Court of Appeals, Eleventh Circuit

Fair Housing Act – Municipal Corporations – Zoning – Code Enforcement – Disparate Treatment – Disparate Impact – Reasonable Accommodation – City Did Not Violate the Fair Housing Act by Enforcing Its Occupancy Turnover Rule Against Plaintiff's Halfway House for Recovering Addicts.

The plaintiff, Gulf Coast Recovery Center (center), appealed the decision of the Code Enforcement Board of the City of Treasure Island. The Code Enforcement Board upheld a citation of $250 per day against the center for violation of the city's occupancy turnover rule. The center claimed that enforcement of the turnover rule against the halfway house amounted to violations of the Fair Housing Act, the Americans with Disabilities Act, and the equal protection clauses of the Florida and federal constitutions. The district court granted summary judgment in favor of the city on all claims. The appellate court upheld the decision of the district court on all counts except for the accommodation claims. The appellate court held that they could not determine whether the city must accommodate four of the six halfway houses because a genuine issue of material fact may exist about whether living in a halfway house is necessary to afford recovering substance abusers an "equal opportunity to use and enjoy" halfway houses. *Gulf Coast Recovery Inc. v. City of Treasure Island*, 21 Fla. Weekly C1154 (11th Cir. October 8, 2008).

Religion – Establishment – Legislative Prayer – Counties – District Court Did Not Clearly Err in Finding that Practice of County Commission Allowing Volunteer Leaders of Different Religions, on a Rotating Basis, to Offer Invocations with a Variety of Religious Expressions Did Not Violate Establishment Clause.

Citizens of Cobb County, Ga., challenged the practice of the Cobb County Commission and the Cobb County Planning Commission of allowing volunteer religious leaders from the community to offer prayers prior to meetings. The prayers are offered by leaders of different religious faiths on a rotating basis. The plaintiffs argued that the Establishment Clause of the U.S. Constitution permitted only non-sectarian prayers for the meeting of the commission. The District Court applied the holding in *Marsh* that "the content of prayer is not concern to judges where … there is no indication that the prayer opportunity has been exploited to proselytize or advance any one, or to disparage any other, faith or belief." Applying the *Marsh* standard, the District Court found that the practices of the County Commission were constitutional and the practices of the Planning Commission were unconstitutional. The actions of the County Commission were found constitutional because the speakers were chosen from a list compiled from multiple sources. The list was organized by religious organization and an effort was made to never allow speakers from the same religious organization to speak at consecutive meetings. The Planning Commission did not compile a comprehensive list and many religious organizations were excluded, whether intentional or not. The decision of the District Court was affirmed. *Pelphrey, et al. v. Cobb County, Georgia*, 21 Fla. L. Weekly Fed. C1200 (11th Cir. October 28, 2008).

Civil Rights – Equal Protection – Counties – Plaintiff Alleged County Agency's Rejection of His Application for Weatherization Assistance Under Energy Conservation and Production Act Because of Criminal History Violated Equal Protection Clause and Further Alleged that County's Weatherization Assistance Program

Policy Amounted to a Bill of Attainder and Was Ex-Post Facto Law – No Error in Granting Summary Judgment in Favor of Defendants.

The plaintiff appealed a district court's grant of summary judgment which upheld the defendant's (Brevard County, et al.) rejection of the plaintiff's application for weatherization assistance. The county's policy with respect to the distribution of federal weatherization assistance funds makes ineligible any person who must register with the county sheriff as a felon or sex offender. The plaintiff contended that this policy violated his equal protection and amounted to a bill of attainder and an ex post facto law. The Appellate Court held that the plaintiff was not entitled to relief. *Houston v. Brevard County, et al.*, 21 Fla. L. Weekly Fed. C1234 (11th Cir. November 5, 2008).

Labor Relations – Municipal Corporations – Fair Labor Standards Act – Overtime – Exemptions – Employees Having "Responsibility to Engage in Fire Suppression" – Whether Plaintiffs Ever Actually Engaged in Fire Suppression Is Irrelevant.

The plaintiffs appealed the district court's grant of summary judgment in favor of the City of Deerfield Beach (city) in an action for unpaid overtime compensation pursuant to the Fair Labor Standards Act (FLSA). The district court concurred with the city's position that the employees were not entitled to overtime compensation because they fell under an exemption under FLSA for employees who perform fire protection and law enforcement activities. The plaintiffs contended that the exemption did not apply to them because they were emergency medical personnel and the possibility of them participating in fire suppression was "purely theoretical." The appellate court affirmed the decision of the district court finding that the plaintiffs were trained in fire suppression, equipped for fire suppression and could be ordered by superiors to engage in fire suppression activities. *Gonzalez v. City of Deerfield Beach*, 21 Fla. L Weekly Fed. C1264 (11th Cir. November 24, 2008).

Section 5. Recent Decisions of the United States District Courts for Florida

Civil Rights – Counties – Employees – Terminations – Name-Clearing Hearing – County Is Entitled to Summary Judgment on Issue of Municipal Liability for County Department's Failure to Notify Former Employee of Her Right to Name-Clearing Hearing Prior to Publication of Newspaper Article Which Stated that Plaintiff Was Terminated for "Gross Mismanagement" and Failure to Detect Fraud.

The county has a written name-clearing policy available to terminated employees under certain circumstances. The plaintiff was terminated by the Miami-Dade Water and Sewer Department. After the plaintiff's termination a newspaper article was written accusing her of "gross mismanagement." No county official informed the plaintiff of her right to a name-clearing hearing prior to the publication of the article. The plaintiff made a claim of municipal liability for failure to notify her of her right to a name-clearing hearing. In order to prevail in a municipal liability claim, a plaintiff must demonstrate that the violation was caused by a municipal policy, practice or custom. In order to prevail in a municipal liability claim based on the acts of a municipal official, the municipal official must have final decision-making authority. In the present case, the court held that the plaintiff's supervisor did not have final decision-making authority with respect to employment determinations. Only the Board of County Commissioners and the county manager had final decision-making authority with respect to employment determinations, like a name-clearing hearing. The court granted the county's motion for summary judgment. *Mogel v. Renfrow*, 21 Fla. L. Weekly Fed. D389 (S.D. Fla. August 29, 2008).

Speech – Religion – Free Exercise – Assembly – Ordinance Does Much More than Incidentally Burden Religious Congregation, and There Is No Rational Basis for the Ordinance.

The plaintiffs challenged the City of Orlando's (city) large-group feeding ordinance. The ordinance required a permit if an event was likely to attract 25 or more people to a park within the Greater Downtown Park District. The ordinance also limits the number of permits any one group can receive to two per park within a 12-month period. The court found that the ordinance violated the plaintiff's right to free speech and free exercise of religion. *First Vagabonds Church of God, et al. v. City of Orlando*, 21 Fla. L. Weekly Fed. D433 (M.D. Fla. September 26, 2008).

Section 6. Announcements

Mark Your Calendar

The 2009 Florida Municipal Attorneys Association Seminar will be held July 16-18, 2009, at the Hyatt Regency Coconut Point in Bonita Springs.

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