Local Government Law

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Fall 2012

Overview:

Much of our daily interaction with law and government is with local law and local government. Local governments are tasked with providing public goods as central to daily life as public schools and police; they pass laws and issue regulations governing everything from how loud parties can be to what one can eat; and, by setting property tax levels and regulating land uses, they have an enormous impact on the value of what is for most families their largest asset, their home. Local government law is also extremely important to legal practice. Lawyers with practices in areas as different as real estate law, criminal defense, tax, litigation, civil rights, water law and environmental law frequently have to interact with local governmental entities – from zoning boards to local police to specialized local authorities – and with the rules governing what local governments can and cannot do.

Most law school classes, however, ignore local governments and local laws. This class will change that focus, examining both the law governing the powers of local governments and the actual content of local laws and policy. A special focus will be put on the regulation of politics at the local level, looking at how the rules governing local elections affect the results of those elections.

The course will use cutting edge research in economics and political science about cities, but will use those theoretical and empirical studies to address the nuts and bolts of local government law. As such, it should be interesting to anyone from hard-boiled former city managers to students who merely want to know why property is so expensive where they live or why local elections are so uncompetitive. This is an exciting class with provocative and fascinating examples but it is also one that will prepare you for much real world law practice.

Details:

Readings: We will use the Baker and Gillette, Local Government Law: Cases and Materials (4th Edition 2010) casebook. There are also a variety of articles that are either posted to TWEN or are linked to off the syllabus. Cases or articles that don’t have links (newspaper stories, cases), should have citations – get them from Lexis or Westlaw.

Office Hours: Rather than holding formal office hours, I make myself available after each class for as long as anyone needs. I'm also just around -- feel free to drop by my office. Further, I am available to meet by appointment – email DSchleic@gmu.edu schedule an appointment.

Grading: The final exam is 100% of your grade, with the potential for adjustments due to class participation at my discretion.
Syllabus:

This is my general plan for the semester. It is not, however, set in stone, and may change over the course of the semester. Updates will be made in class and on TWEN.

I. Introduction: Local Governments, Local Economies and Local Politics

Class 1: Introduction: Three Views of the City
B&G: 9-14, 16-23, 27-31, 46-51
Ed Glaeser, Are Cities Dying? (TWEN)

II. Defining Local Governments

Class 2 (although it will probably bleed into class 3):
The Federal Constitution, Local Boundaries, and the Right to Vote
B&G: 144-69, 194-203

Class 3: Incorporation and the Significance of Local Boundaries
B&G: 114-117, 136-144, 169-72, 177-192

Class 4: Annexation, Secession and the Right to Vote
B&G: 203-225,

III. Local Powers

Class 5: State Power and Its Limits
B&G: 237-66 (You can skip the problems)
Gerald Gamm and Thad Kousser, Broad Bills or Particularistic Policy?
http://www.stanford.edu/group/west/docs/GammKousserpaper.pdf
(Read just enough of the article to get the idea)

Class 6: Dillon’s Rule:
B&G: 281-313

Class 7-8: Home Rule:
B&G: 313-364

Class 9: Preemption
B&G: 365-90

Class 10: Review and Catch-up
IV. Local Policies and Local Politics

Class 11: Local Services 1: Tiebout and Beyond
B&G: 391-409
Richard Briffault, Our Localism Part II: Localism and Legal Theory, 90 Colum. L. Rev. 3 46, 395-432 (1990) (you can skim this, but make sure you get his basic point)
David Schleicher, I Would, But I Need the Eggs: Why Neither Exit Nor Voice Substantially Limits Big City Corruption, 42 Loy. U. Chi. L.J. 277 (2011) (Part 2 only)

Class 12: Local Services 2: Discrimination, Redistribution and Non-Residents
B&G: 409-432, 880-95

Class 13+14: Zoning:


J. Peter Byrne, Are Suburbs Unconstitutional?, 85 Geo. L.J. 2265 (1997)
William Fischel, The Economics of Zoning (Review Excerpt)

Class 15: Regionalism and School Finance
B&G: 846-67

Class 16: Local Elections

WILLIAM A. FISCHEL; THE HOMEVOTER HYPOTHESIS (excerpt)
Only read the introduction

Class 17: Interlocal Conflict and Cooperation: The Provision of Services
B&G: 791-804, 828-42

Class 18: Regional Governance  
B&G: 818-28, 867-880

Class 19: Catch-up and Review

V. **Local Finances**

Class 20: Public Purpose Requirements  
449-73

Class 21: Property Taxes I:  
B&R 517-40

Class 22: Property Taxes II:  
B&R: 541-61

Class 23: Special Assessments, User Fees, and Impact Fees  
B&R: 562-76, 583-93, 603-18  
The Most Popular Tool: 77 U CHI L REV 65 (2010)

Class 24: Debt Limitations and Their Avoidance  
619-40, 651-54  
*United States Trust Co. v. New Jersey*, 431 U.S. 1 (1977) (optional -- I'm going to lecture about this briefly)

VI. **Hot Issues**

TBD