Local Government Law

Prof. David Schleicher
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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 (and, occasionally, to break down the local government law aspects of Hollywood movies, TV shows, and rap and pop music singles). It should be fun.

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: In lieu of formal office hours, I make myself available after each class for as long as anyone needs. But if you want to meet by appointment, I’m more than happy to do so. Just email me at DSchleic@gmu.edu to schedule an appointment.

Grading: The final exam is 100% of your grade, with 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 by email.

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

August 21: Views of the City

1. B&G: 9-14, 16-23, 27-31, 46-51


II. Defining Local Governments

August 26: The Federal Constitution, Local Boundaries, and the Right to Vote (This almost certainly will bleed into class 3)

1. B&G: 144-63, 194-203, 136-144


August 28th: Incorporation, Annexation, and Secession

1. B&G: 169-72, 177-192, 204-208, 211-19, 221-224

III. Local Powers

September 2: State Power and Its Limits

1. B&G: 2244-52, 253-57 (end of note 1), 261-72,


September 4: Dillon’s Rule:

1. B&G: 281-301, 302-08
After this point, I am not going to be putting dates next to scheduled classes, as the schedule might change a bit. But unless I say otherwise, this is the scheduled…

Classes 6 and 7: Home Rule:
1. B&G: 313-364
3. Do about 2/3 of the reading for the first day, and the rest and the article for the second class

Class 8: Preemption
1. B&G: 365-90

Class 9: The Feds and Local Power, Plus a Review
4. The second half of this class will be devoted to a review of the first two units. If you have questions, thoughts, amusing anecdotes or anything else you would like to discuss during the review, do send them to me by email.

IV. Local Policy and Regional Effects

Class 10: Local Services 1: Equal Services, Discrimination, Non-residents, and redistribution
1. B&G: 391-401, 405-18, 424-432,

Class 11: Zoning, Part 1:
3. William Fischel, The Economics of Zoning (Review Excerpt),
Class 12: Zoning Part II: The regionwide effects of local zoning


Class 13: Regionalism and School Finance

1.  B&G: 846-67
2.  *Bush v. Holmes*, 919 So. 2d 392 (Fla. 2006) (only the majority opinion is assigned, although the dissent is very interesting as well)

Class 14: Interlocal Discrimination, Conflict, Cooperation and Regional Governance:


V.  Local Finances

Class 15: Property Taxes:

1.  B&R 517-22, 527-552
3.  Before this class, pick a property on Zillow or Red Fin and attempt to figure out its annual property tax rate using a local governmental website
Class 16: Non-Uniformity Taxes and Non-Tax Taxes – Special Assessments, User Fees and Exactions (This class will likely spill over into the next one)

1. B&G: 552-58, 562-81, 589-93, 596-618

Class 17: Debt Limits and their Avoidance

1. B&G: 619-40, 651-54
2. Richard Briffault, The Most Popular Tool: Tax Increment Financing and the Political Economy of Local Government (just get the idea)

Class 18: The Constitution(s) and Debt:


Class 19: Detroit and the Municipal Pension Crisis:

c. Amy Monohan, Statutes as Contracts? The "California Rule" and Its Impact on Public Pension Reform, 97 Iowa L. Rev. 1029 (Just get the idea)
   a. Do a google search on what is happening in the Stockton, CA bankruptcy
VI. Issues in LG:

Class 20: Economic Development, Blight, and Public Purpose Requirements:

1. B&G: 452-464, 676-91 (through n.2) (As you are reading, you should know that the opinion in Kaur was reversed by the Court of Appeals)
2. Vicki Been, Community Benefits Agreements: A New Local Government Tool or Another Variation on the Exactions Theme? 77 U. Chi. L. Rev. 5 (2010)
   a. Look into what’s going on Richmond, CA at the time of class

Class 21: Local Elections:

1. WILLIAM A. FISCHEL; THE HOMEVOTER HYPOTHESIS (review excerpt)
3. I will do another of those outlines for this class….

Class 22: Policing: Local Order and Local Democracy:

1. Fraternal Order of Police, Colorado Lodge #27 v. City and County of Denver, 926 P.2d 582 (Colo. 1996)

MORE TO COME…..