

Recent Municipal Law Developments

U.S. Supreme Court Upholds Protest Rights at Funerals – In *Snyder v. Phelps*, No. 09-751 (U.S. March 2, 2011), the United States Supreme Court upheld the right of protesters to picket funerals. The case involved protests by the Westboro Baptist Church at the funeral of Marine Lcpl. Matthew Snyder, and a lawsuit by his family for emotional distress from picketing that included signs such as “Thank God for Dead Soldiers.” In the 8-1 decision, the Supreme Court held that the father’s state tort claims were barred by the First Amendment because the protests “addressed matters of public import on public property, in a peaceful manner, in full compliance with the guidance of local officials.” While this case does not directly effect the State of Missouri’s pending appeal in the 8th Circuit Court of Appeals (regarding Missouri’s invalidated statute protecting funerals from such protests), the Supreme Court did caution that “Westboro’s choice of where and when to conduct its picketing is not beyond the Government’s regulatory reach” and is still “subject to reasonable time, place, or manner restrictions.” Therefore, we can anticipate future statutory or ordinance provisions that seek to address the limitations of this ruling.

Repainting of Water Tower Subject to Prevailing Wage – In *Utility Serv. Co. v. Dep’t of Labor & Indus. Relations*, No. SC 90963 (Mo. March 1, 2011), the Missouri Supreme Court ruled that repainting and replacement of parts on a city water tower was “construction” subject to prevailing wage requirements and not within a “maintenance” exception. The Court held that the term “maintenance” must be interpreted narrowly and that “construction” under the Prevailing Wage Act clearly includes repainting and other work even when there is no “change to a facility’s size, type, or extent.” Local governments planning even minor work on public facilities should carefully examine its public works contract requirements to ensure compliance with this new interpretation of the Prevailing Wage Act.

SEC Issues Proposed Rules on Municipal Advisors – The Securities and Exchange Commission (“SEC”) recently issued [proposed regulations](#) under the Dodd-Frank Wall Street Reform and Consumer Protection Act, currently in effect, that may require non-employee appointed municipal officials involved in certain financial activities of a municipality, including issuance of municipal securities and creating or implementing investment strategies, to register with the SEC as “municipal advisors.” The comment period on the proposed regulations closed on February 22, 2011 and the regulations may be subject to modification. In the interim, advice of counsel should be sought before undertaking actions relating to municipal financing and investment activities that may now require registration.

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