

COLORADO UPDATE

2012 Land Use Decisions

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TO BIKE OR NOT TO BIKE

Webb v. City of Black Hawk, 2013 WL 442882 (Colo. February 4, 2013)

City of Black Hawk banned bicycle traffic on certain local roadways

- ▶ Based on incompatibility of casino buses and bikes on old, narrow mining roads
- ▶ Model Traffic Code and state statute only allowed local government to ban bicycle traffic if alternate route within 450 feet
- ▶ City of Black Hawk altered model traffic code to eliminate the 450-foot requirement
- ▶ Bicycle traffic on local roadways a matter of mixed local and state concern
- ▶ City only has power to regulate, not ban, bicycle traffic in absence of acceptable alternate route

Webb v. Black Hawk (cont.)

How does “regulating” differ from “banning”?

- Day and time restrictions, permissible?

What would have happened if road had not been only route to neighboring community and only close connector to I-70?

- Still mixed concern?

State statute at issues allows local governments to license bicycles.

- What if Black Hawk requires a license for all bicycles in City?



AMENDMENT 64 – RECREATIONAL MARIJUANA

Legalized:

1. Possession, use, display, purchase and transport
2. One ounce or less and related accessories
3. 21 years or older

Still Illegal:

Open and public consumption

AMENDMENT 64 – RECREATIONAL MARIJUANA

Types of recreational MJ businesses:

1. Cultivation
2. Manufacturing
3. Retail
4. Testing

AMENDMENT 64 – RECREATIONAL MARIJUANA

State Regulations due in July, 2013

Local Government Options:

1. Ban - anytime
2. Send to election in even-numbered year – 2014 first chance
3. Allow and Regulate – October 2013

AMENDMENT 64 – RECREATIONAL MARIJUANA

Cannabis Clubs – What are they?

Private club. Membership or cover charge.

Regulatory Options:

1. Colorado Clean Indoor Air Act
Vaporizing versus smoking
Edibles
2. Open and public consumption.
Define open and public consumption to include
consumption in nonresidential settings whether
private or public
3. Zoning
Limit to certain zone districts or simply zone
them out

HAU101-T5



"What'd I tell ya, ain't that good sh**? ... I mean ... yes, that prescription should help your eyesight."

CANNOT ASSIGN LEGISLATIVE FUNCTION

SDI, Inc. v. Pivotal Parker Commercial, LLC, 292 P.3d 1165 (Colo. App. 2012)

- ▶ Special district financed infrastructure in a development known as Stroh Ranch
- ▶ Special district had right to receive development fees as development occurred
- ▶ Special district assigned this right to private developer.
- ▶ Assignment void:
 1. Special District Act only allows for pledges of revenue, not assignments of revenue
 2. Right to collect and set fees is legislative and may not be delegated to private party

NO DEVELOPMENT WITHOUT WATER

Chatfield Community Ass'n et al v. Bd. of County Comm'rs, 11 CV 1437
(Douglas County District Court, August 22, 2012)

2008 Statute – C.R.S. 29-30-301, *et seq.*

No approval of development permit unless determination that water supply adequate to serve entire development

Chatfield Community (Cont.)

Development permit – “any preliminary or final approval of an application for rezoning, planned unit development, conditional or special use permit, subdivision, development or site plan or similar application for new construction”

Chatfield Community (Cont.)

Determination – One-time

Therefore, no ability to make determination in a phased development
Local government has discretion to determine at which stage in review process it is made

“Adequate” means sufficient through build out

No need to actually have acquired water or constructed infrastructure

Appealed filed and legislation may be on the way

ASSESSORS HAVE NO DISCRETION IN CALCULATING URBAN RENEWAL TAX INCREMENT FINANCING

Northglenn Urban Renewal Authority v. Reyes, 12 CA 0130
(February 28, 2013)

Tax increment financing – form of public funding for urban renewal authorities and Downtown Development Authorities

Urban renewal authority and assessor disagreed over TIF calculation when property is removed from a TIF area

Approximately \$5 million at stake

NURA (Cont.)

- ▶ Court of Appeals agreed with NURA regarding the calculation
- ▶ Assessor's have discretion in valuing property, but not in interpreting Urban Renewal Law and calculating how to distribute TIF revenue
- ▶ When property is no longer subject to a TIF, its value should be subtracted from both the total value and the base value

NURA (Cont.)

Court of Appeals agreed with the Assessor regarding the duration of a TIF

Property added to an existing TIF area has a 25-year duration commencing as of the effective date of the original TIF provision

However, municipality has the ability to vary the commencement date for newly added property if it includes express language in the amending resolution



"You seem to know something about law. I like that in an attorney."