

*Spring 2019*

IN THE ZONE

Current Trends in Land Use Law

The Latest News on Recreational Cannabis in Illinois

By: John P. Reding

Last week the Illinois General Assembly moved one step closer to passing Senate Bill 7, the Cannabis Regulation and Taxation Act. SB0007 right now is known as a 'shell bill' in that it only contains a title provision without any substantive text. However, on Wednesday April 4, the Senate Executive Committee passed the bill by a vote of 12-4.

Sen. Heather Steans originally filed SB0007 on January 9, 2019 and is the bill's main sponsor. "We're going to be coming back to the committee with the full amendment," [said Sen. Steans](#). "Hopefully we're going to file it by the end of April and we're going to have plenty of time to hear and debate it."

Governor J.B. Pritzker's proposed fiscal year 2020 budget accounts for \$170 million in projected revenue from legalization; however, this projection is based on licensing fees and not tax revenue. The most recent estimate by the [Illinois Economic Policy Institute](#) points to \$525 million in tax revenue and nearly 24,000 new jobs from legal cannabis.

On April 1, 2019 the Illinois Municipal League reported that it obtained a copy of a drafter's memo summarizing what is expected in the legislation (available [HERE](#)). According to the IML, the upcoming amendment is likely to cover the following subjects: personal use, possession limits for residents and non-residents, prohibited uses, home grow cultivation, medical use, employment, financial institutions, expungement, underage possession, state regulatory oversight, licensing procedure, marketing and advertising, local ordinances, and revenues and appropriations.

If you have any questions about the proposed cannabis legislation in Illinois please contact your Ancel Glink attorney.

See You at the APA National Conference in San Francisco!

Join Ancel Glink for the following events:

- Legal Issues with Short-Term Rentals on Saturday April 13 with Dan Bolin. Click [HERE](#) for more information.
- Right-of-Way Management on Saturday April 13 with Dan Bolin. Click [HERE](#) for more information.
- Intergovernmental Dynamics: Politics, Laws, and Schoolhouses on Monday April 15 with David Silverman. Click [HERE](#) for more information.



Cases to Know

[City of Yorkville v. Fidelity et al.](#) A recent appellate court decision found two homebuilders liable for building public improvements which a bankrupt developer had agreed to provide the City in an earlier annexation agreement. The homebuilders argued that a provision in the annexation agreement absolved them of responsibility for completing the public improvements agreed to by the developer because they simply purchased "empty" lots. However, the court concluded that any subsequent purchaser of an empty lot will be proportionally liable for completing the obligations in the annexation agreement even if it is the purchaser of a single lot. For more information click [HERE](#).

[Illinois Road and Transportation Builders Association v. County of Cook.](#) In 2016 state voters approved the Safe Roads Amendment which requires that revenues from transportation taxes be used for transportation related expenses. Several contractor associations brought suit against Cook County alleging it was violating the Amendment by diverting these revenues to its Public Safety Fund. The County argued it was not bound by the Amendment because it did not specifically limit home rule powers under Article VII, Section 6(a) of the Illinois Constitution. The Court agreed, noting that the language of Section 6(a) of Article VII specifically states that home rule power can only limited "by this section." For more information click [HERE](#).

[Construction and General Laborers Union No. 300 v. Town of Grand Chute.](#) A labor union in Wisconsin inflated a 12-foot balloon rat in protest of a local masonry company. The rat was on the public way and violated the municipality that prohibited signs that are secured to the ground on the public way. The Seventh Circuit Court of Appeals sided with the municipality's ordinance over the union's argument that the rat was an expression of free speech. The Court noted that a municipality is entitled to implement a nondiscriminatory ban of all private signs from the public roads and rights-of-way and concluded that there was no evidence to show that the sign ordinance was enforced selectively. For more information click [HERE](#).

[Price v. City of Chicago.](#) In 2009 the City of Chicago adopted an ordinance which prohibited any person from approaching within 8 feet of another person in the vicinity of an abortion clinic if their purpose is to engage in counseling, education, protect or similar activities. The district court upheld the ordinance citing a U.S. Supreme Court case from 2000 (Hill v. Colorado) that upheld a nearly identical law. On appeal, the Seventh Circuit upheld the "bubble zone" ordinance in favor of the City that it was not unconstitutional. For more information click [HERE](#).

[Easterday v. Village of Deerfield.](#) A Lake County Circuit Court Judge entered a permanent injunction enjoining the Village of Deerfield from enforcing any provision of two ordinances passed by the Village in 2018 which made it unlawful to keep, possess, bear, manufacture, sell, transfer or transport assault weapons or large capacity magazines as defined in the Village ordinances. On the same day Deerfield issued a statement that the Village and its legal team are reviewing its options, including the right to appeal the decision. For more information click [HERE](#).



Legislation to Love or Loathe

Short-term Rentals. A new short-term rental bill was introduced again in this legislative session. [HB 2919](#) was introduced which, if passed, would restrict municipal zoning authority over short-term rentals such as Airbnb. The proposed bill would prohibit municipalities from enacting any ordinance, regulation, or plan that would prohibit short-term rentals or even regulate them based on classification, use or occupancy. For more information click [HERE](#).

Crop Protection. [SB1675](#) was recently introduced which would significantly restrict local zoning authority. The bill amends the Zoning Division of the Municipal Code and provides that a municipality, including home rule municipalities, may not restrict residents from constructing a season extension or crop protection device from each October 1 through April 15. For more information click [HERE](#).

Home Inspection. [HB2206](#) would further restrict municipal powers and would only allow home inspections by a unit of local government under the following circumstances: a fire, medical, or police emergency; as otherwise permitted by Section 9 of the Fire Investigation Act; voluntary consent of the owner or occupant of the property; lawful warrant; or court order. For more information click [HERE](#).

Building and Zoning Restrictions. [HB3185](#) would prohibit municipalities, including home rule units, from enforcing any building or zoning ordinance against ordinance against a development after a developer has taken one of five "qualifying" steps to move the project forward. If passed, the bill would allow a developer to sue the municipality to order the issuance of permits and approvals and the imposition of fines if the municipality tries to enforce an ordinance in violation of this law. For more information click [HERE](#).



New Episode of Quorum Forum

Ancel Glink's Quorum Forum Podcast released [Episode 21](#): Tiny Homes. Tiny homes are a big trend, and Ancel Glink attorney [Kurt Asprooth](#) joins our regular meeting to discuss local regulations for these unique structures; but first Ancel Glink attorney John Reding brings the latest on recreational cannabis proposals in Illinois. Also check out [Episode 20](#): Live from the APA-CMS Bar Exam Planning Law Session!



About Ancel Glink

For more information visit Ancel Glink's web-site at www.ancelglink.com or email us at inthezone@ancelglink.com. To stay up to date on pending legislation, recent cases, and other topics of interest to local governments, you can also visit our blog [Municipal Minute](#), and listen to Ancel Glink's [Quorum Forum](#) podcast. You can follow the Land Use Group on Twitter [@AnceGlinkLand](#), or like Ancel Glink: Land Use on [Facebook](#).

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