

August 5, 2026

MEMO TO: David Raatz, Director of Council Services

F R O M: Carla Nakata, Legislative Attorney *cmn*

SUBJECT: **SUPREME COURT REVIEW FOR LOCAL GOVERNMENTS: 2025-2026** (PAF 25-010(35))

I attended the International Municipal Lawyers Association's webinar "Supreme Court Review for Local Governments: 2025-2026" on July 27, 2026. The one-hour presentation hosted by the Local Government Legal Center focused on cases that impact local governments' liability and public fiscal responsibility. The webinar was moderated by IMLA's Executive Director and General Counsel, Amanda Karras, and featured speakers Meaghan VerGow, Partner, O'Melveny, and Amy Mason Saharia, Partner, Williams & Connolly.

The webinar was structured to provide an overview of 13 key cases, but later cases were given short shrift because of time constraints. The first case in particular was given a more in-depth analysis.

1. Pung v. Isabella County. This case involved the question of what is owed to a delinquent taxpayer after there has been a public auction. The case is a follow-up to Tyler v. Hennepin. The takings clause requires that proceeds from a tax sale go to the taxpayer—e.g., the State doesn't get to keep the difference but must remit the net proceeds to the taxpayer. The question here was what constitutes the net proceeds. Does the State owe what the State actually got at the tax sale or is the government obligated to return to the taxpayer the property's fair market value? The mere prospect of having to litigate what constitutes FMV struck terror in local attorneys nationwide.

The case started with a dispute with the Pung family and whether they qualified for a state law exemption for principal residences. The Michigan County assessor denied the exemption. The Pungs appealed twice. At the end they were left with a \$2,200 state tax bill. They refused to pay it, so eventually the County initiated foreclosure proceedings. The property sold for \$76,000. After deducting the \$2,200 debt, that left about \$74,000, which the County agreed to return. The Pungs said the property's FMV was much higher and that if the tax process weren't so unfair, they would have gotten the higher amount and the County owed them more than they were paid. If the petitioner was right about how the property value needed to be calculated, it would have been

catastrophic for the government. The practical effect would be to preclude governments from collecting tax debts altogether.

The Supreme Court had little patience for the petitioner's arguments. Writing for the Court, Justice Alito framed the question as whether just compensation following a tax sale is measured by the price of property fetched at auction or by a hypothetical FMV. The Court decided the auction price was a fair baseline if the tax sale was fair.

Justice Alito observed the Pungs had years to take steps and failed to do so. He also referred to the burdens that would be imposed on governments. The petitioner also raised an excessive fines issue—whether a payment levied by government exists to punish. Justice Alito concluded that the procedures applied here don't exist to punish taxpayers.

2. Trump v. Barbara. The issue was whether babies born to individuals in the U.S. temporarily or unlawfully are automatically entitled to citizenship under the Fourteenth Amendment. The controversy arose soon after Trump's swearing in because of an Executive Order he issued. The argument was that babies born to individuals in the U.S. temporarily or unlawfully are not entitled to citizenship under the Fourteenth Amendment or under the federal statute that implements it—the Immigration and Nationality Act. The Court resolved the case under the Constitution as opposed to under the statute in favor of citizenship.

The Court looked at the history of citizenship practices and said that citizenship is the right to have rights and to freely participate in our community.

3. Chatrpie v. United States. The case involved geofence, or reverse location, warrants. The warrant arose out of a bank robbery for which the police didn't have a suspect. They went to Google and asked it to identify anyone who had turned on their location history during a certain time and distance. Google sent information, the police narrowed the people they were interested in to three, and Google sent information about those people. The warrant was challenged as being insufficiently particularized and lacking probable cause. The question before the Court was whether the collection of data counts as a search. The Court said the collection of data is a search. The Court said cell phones are different, everyone has to have one, and they are almost like an appendage to our bodies. They contain an unfathomable amount of information about us. Giving that kind of information to a third party does not result in depriving someone of their expectation of privacy. Cell phone users have an expectation of privacy in their cell phone information.

4. Case v. Montana. The case involved the standard for a warrantless entry into a home to render emergency aid. An individual relayed to his ex-girlfriend that he was suicidal. The girlfriend heard what sounded like a gun clicking. She called the police. The police showed up. They determined the individual had already shot himself or was about to and entered the home. The individual assaulted a police officer in his home. The Court didn't articulate a new standard. The Court said officers may enter a home when they have an "objectively reasonable basis" to deal with serious harm.

5. Zorn v. Linton. The case involved protesters at the Vermont state capitol who refused to leave. The Second Circuit rejected a claim of qualified immunity and said use of a wrist lock in this situation was an unconstitutional and excessive use of force. The Court summarily reversed the decision by a 6 to 3 vote, with the three liberal justices dissenting. The majority held the Second Circuit had misread the case. Whether a wrist lock violates the constitution depends on the facts, including whether officers had given warnings to a protester. The Court said there was no clearly established law holding this had violated the Fourth Amendment. A qualified immunity analysis is fact dependent.

6. Wolford v. Lopez. The Court recognized a more robust Second Amendment. What kinds of gun-adjacent regulations will offend the Second Amendment? The Court looks to history to see if there's a sufficiently close analog to this kind of regulation. If there is, the Court will find it consistent with the Second Amendment. Hawaii has always had one of the more rigorous gun regulations in the country. After the public-carry decision came out in Bruin, Hawaii goes back to the drawing board and says we will adopt a presumption that you're not allowed to bring a firearm onto private premises that are open to the public unless you have the affirmative consent of the private property owner. The Supreme Court concluded the law violates the Second Amendment. A private property owner can prohibit you from bringing firearms onto their premises but can't require affirmative consent. The upshot: a private property owner can continue to exclude people with firearms from their property, but it has to be an explicit statement and can't be presumed. The decision was 6 to 3. The Court said you don't look to Hawaii's history, but the nation's history.

7. U.S. v. Hemani. The case involved the question of whether a federal prohibition making it a crime for anyone who is an unlawful user of a controlled substance to have a gun violated the Second Amendment. The respondent was at his home. Federal agents were pursuing a tip that maybe someone in the

home was involved in terrorism. Police entered the home and found cocaine, marijuana, and a pistol. Hemani admitted to being a marijuana user. The Court said application of the law to the individual was unconstitutional.

8. Trump v. Illinois. The President called the National Guard into Chicago, invoking 10 U.S.C. Section 12406, which authorizes the President to call National Guard members into federal service during invasion, rebellion, or inability to enforce U.S. laws with regular forces. The rationale was that they were having difficulty defending ICE facilities. A law professor submitted a brief saying “regular forces” means the military, not civil law enforcement. The Court ordered the parties to brief the question. The Court resolved the case against the Administration, saying the term “regular forces” likely means military forces. This Act likely applies only in the rare case where there is some statutory or other authorization that allows the president to use military forces domestically. President Trump didn’t take the next step of invoking the Insurrection Act.

9. Learning Resources v. Trump. The Court struck down wide-ranging tariffs by a vote of 6 to 3. The Administration is processing refunds. The President has imposed new tariffs which are now being challenged. They are different because they arise under a statute that allows the President to impose tariffs.

10. Louisiana v. Callais. The case eviscerates Section 2 of the Voting Rights Act, making it difficult to place a claim under that provision. To challenge a districting decision on VRA Sec. 2, plaintiffs must be able to come up with an alternative district that would satisfy legislators’ priorities. The demise of the VRA is all but complete. States have substantially broader latitude to issue districting plans that they want.

11. Watson v. Republican National Committee. Federal election-day statutes do not require absentee (mail-in) ballots to be received by Election Day.

12. Trump v. Slaughter. The President can fire at-will heads of independent federal agencies. The decision will lead to wider swings at the policy level.

13. Trump v. Cook. The Court denied the government’s application for a stay of the District Court’s order issuing a preliminary injunction preventing Lisa Cook’s removal from the Board of Governors of the Federal Reserve System. There wasn’t time for discussion, though the speaker stated the Court treated the Federal Reserve differently from other federal agencies.

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Thank you for the opportunity to attend this webinar.

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