



NEW JERSEY INSTITUTE OF  
LOCAL GOVERNMENT ATTORNEYS

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**Submissions for future volumes of the  
LOCAL GOVERNMENT LAW REVIEW  
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**The deadline for the January 2022 issue is December 15, 2021.**

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## **EDITOR'S NOTE**

It seems as if most courts used the hiatus between what used to be called the Trinity Term (May to July) and the Michaelmas Term (October to December) to clear their backlog of opinions for cases held in the COVID era. We present an extraordinarily large number of reported and unreported cases in this issue. Our associate editors deserve all the credit for bearing up under the strain.

Some of the cases are of particularly interest to the Institute because it was involved as *amicus* in some difficult cases. In many of the unreported cases the court is asked to make a legal choice on whether an alleged tortious action by a public officer is discretionary (in which case there is a Tort Claim immunity) or ministerial (in which case, there is no immunity). In **Gonzalez**, a case with difficult facts, the Supreme Court has made life difficult for local government defense counsel by punting the question of ministerial/discretionary actions to the jury. **Winberry**, held that a tax collector in a municipality is a policy maker when dealing with redemption of tax sales certificates, so the both the municipality and the collector can be held liable under the New Jersey Civil Rights Act. In **Pritchett**, the court reaffirmed that punitive damages can be awarded against a public entity in LAD cases but stiffened the standards for the strict scrutiny that needs to be applied; while again stressing that the Legislature is free to act, but it has not.

In the July issue we highlighted the League of Municipalities' Town Crier Blogs that reported on the adoption of P.L. 2021, c.271 (adopted July 9) that directed the Commissioner of the Department of Community Affairs to create a "model ordinance" for municipalities to deal with electrical vehicle charging stations and to make that ordinance effective in all municipalities once

it had been published by DCA.. In record time, the DCA promulgated the ordinance and published it by September so that ordinance is in effect now without any comment period under the Administrative Procedures Act or any local hearing on the ordinance. At the very least, this is an unprecedented delegation of municipal power to the DCA.; at the worst, it could be the camel's nose under the tent, for future actions to limit home rule. Judge for yourself. We publish a short **Legislative Comment**, the League's recent blog on the topic, and the actual model ordinance. Our readers are asked to comment on the difficulties they will face in dealing with this ordinance.

There is a backlog of legislation adopted in this election year. We will get to them in the next issue.

Finally, we present the October analysis by the **State & Local Legal Center** about the cases affecting local governments in the new term of the United States Supreme Court.

Again, we encourage you to consider submitting an article that qualifies for the \$1,000 Walter T. Wittman Prize in writing. To qualify you now have until September 15, 2022 to submit an article to us. We would welcome point-counterpoint articles on important positions. Each issue of the Law Review presents cases being decided under the New Jersey Civil Rights Act. We would welcome an article about that Act and its impact on local governments. But, please consider any interesting topic and contact us about it by email to [dunn62@optonline.net](mailto:dunn62@optonline.net).

Electronic copies of back issues of *The Local Government Law Review* from 2010 onward can be found in the Members Only section of the Institute's website ([www.njilga.org](http://www.njilga.org)). If you need a copy of materials from the Local Government Law Review published before 2010, you may email a request to [trishka@mqplaw.com](mailto:trishka@mqplaw.com).

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