

STATE AND LOCAL GOVERNMENT

Spring, 2010

SYLLABUS

Tues. 1:45-3:15 PM
Thurs. 1:45-3:15 PM

Prof. Peter Enrich
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Office Hrs.: Mon. 3-4:30 PM
Wed. 9:30-11 AM or
by appointment

REQUIRED MATERIALS:

FRUG, FORD & BARRON, LOCAL GOVERNMENT LAW (5th ed.) [hereinafter "**Frug**"].

Photocopied Materials, available from Gnomon Copy [hereinafter "**PM**"].

NOTE: The assignments listed below are tentative. Specific assignments and, particularly, the pace at which we move through the materials are subject to change. All modifications will be announced in class.

Certain of the readings for several classes are designated as "Background." While students are strongly encouraged to read these materials, detailed familiarity with them will not be essential to the class discussion. In other words, do read them, but don't worry about reading them as closely as other assigned materials.

Please note that all students are required to participate in one of the two simulation exercises referenced below (see Classes 9 and 18). In addition, students interested in writing a term paper in lieu of the take-home examination should consult with me about this option within the first 2-3 weeks of the quarter.

I. Introduction

Class 1 (Mar. 2) -- Course overview and introduction to the tiers of government

READINGS: **Frug** pp. v-viii, 1-17, 97-106

BACKGROUND: Materials on governmental structure (**PM** pp. 1-29)

II. Structural Principles

Class 2 (Mar. 4) -- Municipal corporations introduced

READINGS: **Frug** pp. 22-51
Grumet v. Pataki (N.Y. 1999) (**PM** pp. 30-37)

BACKGROUND: Phoenix article on Rajneeshpuram (**PM** pp. 38-41)
Excerpt from Frug, The City as Legal Concept (**PM** pp. 42-44)

Class 3 (Mar. 9) -- Defining the Municipality

READINGS: **Frug** pp. 120-122, 359-364, 366-373, 412-419, 426-431, 373-390
Excerpt from Anderson, Cities Inside Out (**PM** pp. 45-53)

BACKGROUND: **Frug** pp. 325-343, 467-473

Class 4 (Mar. 11) -- Enabling Legislation and Home Rule

READINGS: **Frug** pp. 137-158, 168-176
In re Ball Mountain Dam Hydroelectric Project (Vt. 1990) (**PM** pp. 54-55)
City of Ocala v. Nye (Fla. 1992) (**PM** p. 56)
Examples of state constitutional Home Rule provisions (**PM** pp. 57-62)
Excerpt from Briffault, Our Localism I (**PM** pp. 63-68)
Problem 1: The Mayor's Mandate (**PM** pp. 69-71)

NOTE: There will be **no class** on Tuesday, March 16.

Class 5 (Mar. 18) -- Limits on Home Rule

READINGS: **Frug** pp. 176-191, 223-233, 208-213
Grace v. Town of Brookline (Mass. 1979) (**PM** pp. 72-76)
Greater Boston Real Estate Bd. v. City of Boston (Mass. 1986) (**PM** pp. 77-81)
Inganamort v. Borough of Fort Lee (N.J. 1973) (**PM** pp. 82-85)

BACKGROUND: **Frug** pp. 233-36

Class 6 (Mar. 23) -- Home Rule as a limit on the state

READINGS: **Frug** pp. 199-207, 214-223, 158-167
Three Mass. cases on local legislation (**PM** pp. 86-95)

BACKGROUND: **Frug** pp. 191-198, 307-317

Class 7 (Mar. 25) -- Federal/state/local relations

READINGS: Lorillard Tobacco Co. v. Reilly (U.S. 2001) (**PM** pp. 96-101)
Frug pp. 236-250
Reno v. Condon (U.S. 2000) (**PM** pp. 102-106)

BACKGROUND: United States v. Morrison (U.S. 2000) (**PM** pp. 107-117)

Class 8 (Mar. 30) B Federal/state/local relations, cont=d

READINGS: Kimel v. Florida Board of Regents (U.S. 2000) (**PM** pp. 118-129)
Nevada Dept. of Human Resources v. Hibbs (U.S. 2003) (**PM** pp. 130-139)
Frug pp. 251-269

Class 9 (Apr. 1) -- Problem 1: The Mayor's Mandate

BACKGROUND: **Frug** pp. 106-117

NOTE: Written component of Problem 1 is due in class today.

III. The Regulatory Role

Class 10 (Apr. 6) -- Introduction to Zoning and Land Use Controls

READINGS: Village of Euclid v. Ambler Realty (U.S. 1926) (**PM** pp. 140-149)
Taco Bell v. City of Mission (Kans. 1984) (**PM** pp. 150-154)
Frug pp. 618-642

BACKGROUND: **Frug** pp. 642-654

Class 11 (Apr. 8) -- The Exclusionary Zoning Problem

READINGS: **Frug** pp. 443-461, 337-348
Excerpt from Briffault, Our Localism II (**PM** pp. 155-161)

BACKGROUND: **Frug** pp. 348-357, 461-467

Class 12 (Apr. 13) – Takings, Exactions, etc.

READINGS: **Frug** pp. 707-719, 720-724

Home Bldrs. Ass'n v. City of Napa (Cal. App. 2001) (**PM** pp. 162-163)

Municipal Art Society v. City of New York (N.Y. Sup. Ct. 1987) (**PM** pp. 164-167)

BACKGROUND: **Frug** pp. 508-513, 521-537

Parking Assoc. of Georgia v. City of Atlanta (U.S. mem. 1995) (**PM** pp. 168-169)

Class 13 (Apr. 15) – Private Zoning

READINGS: **Frug** pp. 51-56, 61-74, 520-21

City of Ladue v. Gilleo (U.S. 1994) (**PM** pp. 170-175)

Omega Corp. v. Malloy (Va. 1984) (**PM** pp. 176-182)

Hill v. Community of Damien of Molokai (N.M. 1996) (**PM** pp. 183-196)

Excerpt from Michelman, Political Markets and Community Self-Determination (**PM** pp. 197-201)

Frug pp. 678-680

Larkin v. Grendel's Den, Inc. (U.S. 1982) (**PM** pp. 202-208)

Beacon Hill Civic Ass'n v. Ristorante Toscano (Mass. 1996) (**PM** pp. 209-212)

IV. The Operational Role

Class 14 (Apr. 20) -- Governmental and proprietary roles

READINGS: **Frug** pp. 795-801, 680-687, 801-805

Two N.Y. Times articles on responses to Kelo (**PM** pp. 213-217)

Frug pp. 734-746

BACKGROUND: **Frug** pp. 724-733

Class 15 (Apr. 22) -- Preferential uses of governmental resources

READINGS: **Frug** pp. 390-412

Matthews v. Bay Head Improvement Ass'n (NJ 1984) (**PM** pp. 218-225)

BACKGROUND: Salem Blue Collar Workers Ass'n v. City of Salem (3d Cir. 1994) (**PM** 226-232)

Class 16 (Apr. 27) -- Preferential uses of taxing powers

READINGS: Bacchus Imports, Ltd. v. Dias (U.S. 1984) (**PM** pp. 233-237)
Commonwealth Edison Co. v. Montana (U.S. 1981) (**PM** pp. 238-250)
West Lynn Creamery v. Healy (U.S. 1994) (**PM** pp. 251-260)
Cuno v. DaimlerChrysler Corp. (6th Cir. 2004) (**PM** pp. 261-268)
Wall St. Journal article on Film Incentives (**PM** p. 269)

Class 17 (Apr. 29) -- Interjurisdictional equity

READINGS: **Frug** pp. 473-502

BACKGROUND: **Frug** pp. 502-506

Class 18 (May 4) -- Privatization

PROBLEM 2: Reinventing Recreation (**PM** pp. 270-272)

READINGS: "Unloading Assets," Governing (2007) (**PM** pp. 273-276)
Frug pp. 746-766, 777-788, 700-705
Rendell-Baker v. Kohn (U.S. 1982) (**PM** pp. 277-284)
N.Y. Times article on Business Improvement Districts (**PM** pp. 285-286)

BACKGROUND: **Frug** pp. 766-776

V. Citizen Controls

Class 19 (May 6) -- Voting Rights

READINGS: **Frug** pp. 861-875, 883-886, 79-97

BACKGROUND: **Frug** pp. 876-883

Class 20 (May 11) -- Initiative and Referendum

READINGS: **Frug** pp. 886-902, 17-21
Washington v. Seattle School Dist. No. 1 (U.S. 1982) (**PM** pp. 287-302)
Mass. Const. Amendments Art. 48 (**PM** pp. 303-307)

Class 21 (May 13) – Catch-up & Wrap-up

READINGS: None