

Introduced by: Councilmember Dyballa

CITY OF TAKOMA PARK, MARYLAND

RESOLUTION NO. 2018-2

A Resolution Requesting that the Maryland Municipal League file an *Amicus Curiae* Brief in the Court of Special Appeals regarding Montgomery County, Maryland v. Complete Lawn Care, Inc. et al

WHEREAS, the City of Takoma Park enacted an ordinance in 2013 that prohibits the use of pesticides that are harmful to human and pet health and the environment for lawn care purposes; and

WHEREAS, Montgomery County enacted an ordinance in 2015 that, like the 2013 Takoma Park ordinance, prohibits the use of pesticides that are harmful to human and pet health and the environment for lawn care purposes; and

WHEREAS, the Circuit Court for Montgomery County, in *Complete Lawn Care, Inc. et al v. Montgomery County, Maryland*, ruled that Maryland State law impliedly preempts Montgomery County from regulating the use of pesticides both because the County ordinance conflicts with the State law and because the State's pesticide regulations are so comprehensive that the State has occupied the entire field of pesticide regulation, leaving no room for supplemental local regulations; and

WHEREAS, Montgomery County appealed the ruling of the Circuit Court, and the appeal is now pending before the Maryland Court of Special Appeals; and

WHEREAS, under the reasoning of the Circuit Court's decision, Maryland State law would preempt any local government, including counties and municipal corporations, from imposing any regulations on the use of pesticides; and

WHEREAS, if the Court of Special Appeals affirms the decision of the Circuit Court, local governments in Maryland would not have the authority to protect the health and safety of residents or the environment by regulating the use of pesticides containing harmful chemicals; and

WHEREAS, if the Court of Special Appeals adopts the reasoning of the Circuit Court, the historic judicial reluctance to deem state statutes that do not include express preemption language to impliedly preempt local legislative authority could reduce local legislative authority in other subject matters where local governments traditionally have exercised legislative authority concurrent with the State; and

WHEREAS, the Maryland Association of Counties has already recognized the importance of Montgomery County's appeal and intends to file an *amicus curiae* (friend of the court) brief and has expressed interest in filing a joint brief with MML.

NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND THAT the City of Takoma Park requests that the Maryland Municipal League file an *amicus curiae* brief in *Montgomery County Maryland v. Complete Lawn Care, Inc. et al*; and

BE IT FURTHER RESOLVED THAT the City Manager is authorized to pay the cost of submitting an *amicus curiae* request to the Maryland Municipal League.

THIS RESOLUTION IS ADOPTED BY THE COUNCIL OF THE CITY OF TAKOMA PARK THIS 10TH DAY OF JANUARY, 2018.

ATTEST:

Jessie Carpenter, CMC
City Clerk