

Advocates should be aware of the Supreme Court's recent decision in *City of Rancho Palos Verdes v. Abrahms*. Though it appears unrelated to Medicaid, health, and civil rights issues, it casts further light on the question of when federal statutes are enforceable through 42 U.S.C. § 1983. The defendant city denied the plaintiff the right to build a radio tower on his property. The plaintiff sued under both § 1983 and a provision of the federal Telecommunications Act (TCA) that limits the zoning authority of state and local governments over wireless communication facilities and authorizes suits by individuals adversely affected by such zoning activities. A successful claim under § 1983 would also entitle plaintiff to damages and attorneys fees.

In a unanimous opinion written by Justice Scalia, the Court held that the TCA provided the exclusive remedy for the plaintiff. The fact that the TCA did not provide for attorneys fees and included a 30-day statute of limitations were cited as evidence that Congress did not intend that enforcement under § 1983 - with its longer statute of limitation and provision for attorneys fees - be available. The Court reached this decision despite the existence of a "savings clause," providing that the TCA should not "modify, impair or supersede" federal law. It concluded that § 1983 was not impaired - it would operate just as it did before the TCA was enacted.

For more details about this case and others, see the Spring 2005 issue of NHeLP's *Health Advocate* newsletter (subscription-only).