

Bond Case Briefs

Municipal Finance Law Since 1971

BONDS - GEORGIA

Sherman v. City of Atlanta

Supreme Court of Georgia - June 17, 2013 - S.E.2d - 2013 WL 2927578

State petitioned for confirmation and validation of issuance of city bond. Objectors sought to intervene, appearing via counsel at the bond validation hearing. Objectors were not personally present at the hearing and no documentary evidence was introduced regarding their residency, as required under Georgia's Revenue Bond Law. The superior court declined to rule on the issue of standing, instead finding no merit to objectors' claims. After a hearing, the superior court entered judgment confirming and validating the bond issuance. Objectors appealed.

The Supreme Court of Georgia held that:

- Trial court was required to determine objectors' standing before addressing merits of objections;
- Evidence was insufficient to establish objectors' standing;
- Objectors lacked standing to appeal.

Courts are not required to take judicial notice of facts establishing a party's standing to participate in a judicial proceeding.

City was not judicially estopped from protesting whether objectors were citizens of state and residents of city, as required to establish objectors' standing to participate in proceedings on petition to validate proposed city bond. Although city had argued in prior non-bond validation case that objector should not be allowed to file emergency motion seeking to prevent the commencement of bond validation proceeding because objector's ability to intervene in bond validation proceeding was an adequate remedy at law, such statement did not require application of judicial estoppel, since objector could intervene in bond proceeding, provided objector properly established his standing.