

Bond Case Briefs

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STORMWATER FEES - FLORIDA

City of Key West v. Key West Golf Club Homeowners' Association, Inc.

District Court of Appeal of Florida, Third District - January 26, 2017 - So.3d - 2017 WL 384338

Landholders brought action against city, challenging legality of stormwater utility fees.

After a bench trial, the Circuit Court found in favor of landholders. City appealed, and landholders cross-appealed.

The District Court of Appeal held that:

- Landholders on island were nonusers or minimum users of city's stormwater services, and therefore, city's stormwater utility fee was arbitrary and discriminatory as applied; and
- Landholders were entitled to refund of fees paid.

Landholders on island were nonusers or minimum users of city's stormwater services, and therefore, city's stormwater utility fee was arbitrary and discriminatory as applied; culverts under one road were the only public infrastructure serving the landholders' stormwater for both pollution and flood control purposes, and such culverts were naturally scoured from tidal action and city had never performed any maintenance on them.

Landholders' payment of stormwater utility fees was involuntary, and therefore, after fees were found unlawful, landholders were entitled to refund of fees paid; stormwater ordinance imposed severe penalties for nonpayment.