

# **Bond Case Briefs**

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## **UTILITIES - NEW YORK**

### **Prometheus Realty Corp. v. New York City Water Bd.**

**Supreme Court, Appellate Division, First Department, New York - February 16, 2017 - N.Y.S.3d - 2017 WL 628338 - 2017 N.Y. Slip Op. 01263**

Property owners brought Article 78 proceeding challenging municipal water board's annual 2.1 percent rate increase and its one-time bill credit to certain tax class following mayor's elimination of board's rental payments to municipality, seeking declaratory judgment that water board acted outside of its authority and jurisdiction, and order enjoining water board and water finance authority from enforcing rate increase and bill credit pending resolution of suit.

The Supreme Court, New York County, annulled and vacated water board's resolutions. Defendants appealed.

The Supreme Court, Appellate Division, held that:

- Board's adoption of rate increase and implementation of credit program distinguishing among different classes of customers was not ultra vires action, and
- Board acted in arbitrary, capricious, and unreasonable manner, when it authorized \$183 credit to some, but not all, water customers at same time that it needed to increase overall water rates to fund projected budget shortfall for particular year.

Municipal water board's adoption of a rate increase and implementation of credit program distinguishing among different classes of customers was not ultra vires action, since board had broad statutory authority to set water rates.

Municipal water board acted in arbitrary, capricious, and unreasonable manner, when it authorized \$183 credit to some, but not all, water customers at same time that it needed to increase overall water rates to fund projected budget shortfall for particular year. Even though board acted to provide some relief to keep water and sewer bills as low as possible to all one-family to three-family homes across municipality, rationale for designating class one property owners as qualified for or deserving of credit, but not other classes of property owners was lacking, and credit could not be reconciled with projected budget shortfall for year in which credit was given.