

Bond Case Briefs

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STORMWATER UTILITY FEES - FLORIDA

City of Key West v. Key West Golf Club Homeowners'

District Court of Appeal of Florida, Third District - May 31, 2017 - So.3d - 2017 WL 2350129

Landowners on an island that was within city's boundaries but not the main island brought action challenging the legality of stormwater utility fees for their properties, which included a golf course and a hospital.

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

On rehearing, the District Court of Appeal held that:

- City had the authority to charge landowners a stormwater utility fee, and
- Stormwater utility fee bore a reasonable relationship to the benefits conferred.

Landowners on an island that was within city's boundaries but not the main island contributed to the need for and benefited from city's stormwater management system, and therefore city could charge landowners a stormwater utility fee, where stormwater discharge from landowners' properties, which included a golf course and a hospital, would have caused a salt marsh to back up and flood properties were it not for drainage provided by culverts, storm drains, and outlets that were part of city's stormwater management infrastructure, and city's stormwater program included anti-pollution services that protected the quality of water surrounding the properties and allowed landowners to avoid the more onerous and expensive treatment of their runoff under state and local laws.

Stormwater utility fee that city charged landowners on an island that was within city's boundaries but not the main island bore a reasonable relationship to the benefits conferred, and therefore landowners were not entitled to a lower rate than the ratepayers on the main island, even if the stormwater discharge from landowners' properties did not travel through the stormwater infrastructure located on the main island; the stormwater utility funded more than infrastructure, and substantial, city-wide stormwater anti-pollution measures benefited landowners' properties.