

Bond Case Briefs

Municipal Finance Law Since 1971

IMMUNITY - TEXAS

Turner v. Robinson

Court of Appeals of Texas, Houston (14th Dist.) - August 17, 2017 - S.W.3d - 2017 WL 3581636

Taxpayers brought action against mayor and city seeking a declaration that two propositions for amendments be added to city charter.

The District Court denied city's plea to jurisdiction, and city appealed.

The Court of Appeals held that:

- Taxpayers had standing to bring action;
- Ultra vires exception to sovereign immunity applied; and
- City's sovereign immunity was waived.

Taxpayers had standing to bring action against mayor and city seeking a declaration that two tax propositions for amendments be added to city charter. Taxpayers did not seek to recover funds previously expended but sought to restrain future collection and spending of illegal taxes and reimbursement of illegally collected, but unspent, taxes.

Ultra vires exception to sovereign immunity applied to action brought by taxpayers against mayor and city seeking a declaration that two tax propositions for amendments be added to city charter, and thus trial court properly denied city's and mayor's plea to jurisdiction. Taxpayers sought prospective relief to enforce propositions rather than retroactive relief, and pleadings did not claim mayor failed to perform a purely ministerial act, but that the mayor acted without legal authority.

City's sovereign immunity as to taxpayer's declaratory judgment action was waived in action brought against mayor and city seeking a declaration that two propositions for amendments be added to city charter. Declaratory Judgment Act expressly waived a municipality's immunity for a declaratory-judgment action involving the validity of a municipal ordinance, and while taxpayers challenged actions taken under the ordinances, they also sought a declaration as to their validity.