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Schweitzer Basin Water Company v. Schweitzer Fire District

Supreme Court of Idaho - November 28, 2017 - P.3d - 2017 WL 5710684

Private water company petitioned for a writ of prohibition as to fire district's order to repair and remedy homeowners' fire hydrants on company's water system.

The District Court granted petition and awarded attorney fees to company. District appealed.

The Supreme Court of Idaho held that:

- As matter of apparent first impression, the Court would not consider arguments advanced by amicus curiae that had not been raised by the parties;
- Company's water system could not be construed as a "building or other structure," such that it would allow district's order; and
- Trial court did not abuse its discretion in awarding attorney fees under statute on attorney fees in civil actions.

Statement in fire district's appellate brief that the amicus brief filed by the attorney general contained "a thorough analysis of the issue of jurisdiction" was not sufficient to inject the issues raised by amicus curiae into district's appeal of the issuance of a writ of prohibition as to district's order to private water company to repair and remedy homeowners' fire hydrants on company's water system, as otherwise required for the Supreme Court to consider amicus brief's argument that the trial court did not properly interpret statute on inspection of buildings by state fire marshal within the context of the entire statutory fire-safety scheme; district did not specifically adopt the argument, nor was the argument presented to the trial court.

Administrative hearing process in statute on appealing an order to remedy or remove a building or other structure especially liable to fire was not an adequate remedy at law for private water company, as would otherwise preclude a writ of prohibition against fire district that had issued an order to company to repair and remedy homeowners' fire hydrants on company's water system, where district had no jurisdiction to require company to participate in the administrative process in the first instance under statute on inspection of buildings by state fire marshal.

Private water company's water system could not be construed as a "building or other structure," such that it would allow fire district under statute on inspection of buildings by state fire marshal to order company to repair and remedy homeowners' fire hydrants on the water system, absent factual basis in the record that water system was especially liable to fire.

Trial court did not abuse its discretion in awarding attorney fees under statute on attorney fees in civil actions to private water company that had successfully sought a writ of prohibition against fire district that had issued an order to repair and remedy homeowners' fire hydrants on company's water system, despite district's argument that its actions were reasonable since there was no controlling ordinance or statute preventing the actions of the district, where trial court clearly recognized the issue of attorney fees as a matter committed to its discretion and observed that

district had failed to present any factual or legal basis supporting its claim of jurisdiction, causing company to continue accruing attorney fees.