

# **Bond Case Briefs**

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## **PUBLIC UTILITIES - FLORIDA**

### **Oviedo Town Center II, L.L.P. v. City of Oviedo, Florida**

**United States Court of Appeals, Eleventh Circuit - December 28, 2018 - Fed.Appx. - 2018 WL 6822693**

Owners of affordable housing complex brought action against city under federal Fair Housing Act, Florida Fair Housing Act, and § 1983, challenging utility rate increase.

The United States District Court for the Middle District of Florida granted summary judgment to city on fair housing claims, and dismissed § 1983 claim for failure to plead substantive due process violation. Owners appealed.

The Court of Appeals held that:

- Owners failed to establish prima facie case of disparate impact, and
- Rate increase was rationally related to city's legitimate purpose of generating sufficient funds to operate utility systems.

Owners of affordable housing complex failed to establish prima facie case of disparate impact on racial minorities, as required to state claims against city under federal Fair Housing Act and Florida Fair Housing Act in connection with utility rate increase; although owners proffered survey evidence indicating that 75.73% of heads of households in complex were members of racial minorities, in contrast to census data indicating that only 32.7% of households in city were of racial minorities, owners did not draw comparison between percentage of racial minorities occupying multifamily properties throughout entire city which were impacted by utility policy and percentage of non-minorities living in such properties.

City's policy change, raising utility service charges for residential water and sewage, was rationally related to city's purpose of generating sufficient funds to operate utility systems and periodically updating rate policy consistent with historical practice, and thus did not deprive real property developers of substantive due process.